The Commissioner

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ROYAL COMMISSION

ON CRIME

IN ONTARIO

DAILY TRANSCRIPT
OF PROCEEDINGS

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TUESDAY, OCTOBER 16, 1962

---On resuming at 10.10 a.m.

ROBERT JAMES CUDNEY, resumed,

EXAMINATION BY MR. ESTEY (CONT'D):

Q. We had got into the Columbia Bridge Club at the adjournment last evening.

A. Yes.

Q. And to get your mind back on the problem, this club was incorporated in 1946 and we saw there was a gap in the returns from 1937 to 1955 at which time they were all filed together. Then there is a cancellation of the charter in April of 1960.

A. Yes.

Q. Now, in your old file -- if they will put that file before you?

A. Yes, I have it here.

Q. Now, if we can just highlight of February, 1960, the report of Inspector Walker to Chief Mackey, it is seven pages long and I suggest you don't take the time to read it now.

THE COMMISSIONER: Whatis the date of it?

MR. ESTEY: It is the 17th of February, 1960, my lord.

Q. You will see that it mentions in

Q. We had you into the Columbian Hotel club at the adjournment last evening.

A. Yes.

Q. Are to get your mind back on the problem, this club was incorporated in 1921, and we saw there was a gap in the returns from 1927 to 1929 at which time they were all filed together. Then there is a correspondence of the character in April of 1930.

A.

Q. Now, in your old file -- in the whole put that file before you?

A. Yes, I have it here.

Q. Now, if we can just digress for a moment, 1920, the report of Inspector Walker to Chief Mackey, it is seven pages long and I suppose you don't take the time to read it now.

MR. CONNELLSVILLE: Regarding the case of Lay

MR. MATTY: It is the 17th of February, 1920, my lord.

Q. You will see that it relates to

connection with several of the individual club records that they have advised the police they had never been to a meeting?

A. Yes.

Q. You see the report of Sam Black?

A. Yes.

Q. And the same comment for James Gorrie?

A. Yes.

Q. He says he knows nothing about the Columbia Club?

A. Yes.

Q. And Theodore Johnson had lived at that address for the past forty years?

A. Yes.

Q. And Chris Woods, he had never been a member?

A. Yes.

Q. And Mr. Bell has said he had never been a member?

A. Yes.

Q. Then they came to the conclusion that the charter was fraudulently obtained -- that is towards the end of the report; do you see that?

A. Yes.

Q. Chief Mackey when he forwarded that report in a letter dated the 22nd of February, 1960, says:

connection with several of the individual cases recorde that they have advised the police they had never been to a meeting?

A. Yes.

Q. You see the reports of Mr. [illegible]?

A. Yes.

Q. [illegible]

[illegible]?

A. Yes.

Q. He says he [illegible] about the Orlando Club?

A. Yes.

Q. And Theodore Johnson and Elliot at that address for the past forty years?

A. Yes.

Q. And Ollie Woods, he had never been a member?

A. Yes.

Q. And Mr. Bell has said he had never been a member?

A. Yes.

Q. Then they came to the conclusion that the director was [illegible] occupied -- that is towards the end of the report; do you see that?

A. Yes.

Q. Chief Hickey when he forwarded that report in a letter dated the 22nd of [illegible]

"For your information the persons
"connected with the club are
"connected with the Bellevue Bridge
"and Social Club."

A. Yes.

Q. And, as you can see, he says they were gambling and conspiring to commit crime?

A. Yes.

Q. Having received that report, you wrote a memorandum on the 15th of March, 1960, to the then Provincial Secretary, and perhaps you will be good enough to read that memorandum?

A. This is a letter dated March 15th, 1960, from myself to the Hon. Dr. Phillips:

"I refer to our conversation
"of to-day relative to the above
"club, which is incorporated under
"The Ontario Companies Act by
"letters patent dated August 13th,
"1936. The premises of the club
"are located at 372½ Yonge Street,
"Toronto.

"The Metropolitan Toronto
"Police have made complaints to
"this Department in respect of
"illegal gaming and betting
"activities upon the club's premises.
"The Metro Police have received

"connected with the club are
"connected with the Bellevue Hotel,
"and Social Club."

A. Yes.

Q. And, as you can see, no sign that were gambling and conspiring to commit crime?

A. Yes.

Q. Having received that report, you wrote a memorandum on the 15th of March, 1900, to the then Provincial Secretary, and perhaps you will be good enough to read that memorandum?

A. This is a letter dated March 15th, 1900, from myself to the Hon. Dr. Phillips:

"I refer to our conversation
"of to-day relative to the above
"Hamilton Gambling Hotel
"The Ontario Companies act by
"letters patent dated August 15th,
"1899. The premises of the club
"are leased to this total [illegible],
"Toronto. . . .

"The provincial Police
"Police have made complaints to
"this Department in respect of
"large sums winning and betting
"activities upon the club's premises.
"The metro Police have received

"complaints from people in the vicinity
"such as business men.

"From the time of incorporation
"in 1936 to 1953 the club never filed
"annual returns to this Department.
"In 1953 it appears that all annual
"returns were filed and such arrears
"of returns showed the Board of
"Directors as the original applicants
"of the club. This gave rise to a
"suspicion on the part of the
"Department that the corporate powers
"had been forfeited under the former
"Companies Act for non-user. In
"this regard I may say that under
"Section 27 of the former Companies
"Act, which was repealed in 1954,
"if the corporation did not use
"its corporate powers for two
"consecutive years, the corporate
"powers were automatically forfeited.
"In other words it was not necessary
"for this Department to forfeit the
"powers but they were automatically
"forfeited by operation of law for
"non-user.

"With such possible forfeiture
"in mind I wrote to the club on
"January 28th, 1960, and asked the

"complaints from people in the vicinity,
"even as business men.

"From the time of incorporation
"in 1890 to 1893 the club never filed
"annual returns to this Department.
"In 1893 it appears that all annual
"returns were filed and prior arrears
"of returns showed the bond of
"the club. This gave rise to a
"suspicion on the part of the
"Department that the corporate status
"had been forfeited under the former
"Corporations Law non-user. In
"this regard I may say that under
"section 27 of the former Corporation
"Act, which was repealed in 1895,
"if the corporation did not use
"its corporate powers for two
"consecutive years, the corporate
"powers were automatically forfeited.
"In other words it was not necessary
"for this Department to forfeit the
"powers but they had automatically
"forfeited by operation of law for
"non-user.

"With such an introduction
"in mind I wrote to the club on
"January 25th, 1900, and asked the

"club to produce all its books since
"incorporation date. The books of
"the club were produced but as is
"usual in the case of clubs, the
"only books available were those
"subsequent to 1957. The club
"stated that the books before 1957
A/2 "had been lost or destroyed.
"The Metropolitan Toronto
"Police, at our request, interviewed
"the original corporators of the
"club whose names had appeared as
"directors of the club from 1936
"to 1953. There were four such
"applicants and directors and three
"were interviewed. The police
"advise us that all three persons
"interviewed claimed that they had
"no connection with the club since
"incorporation. This gives rise
"to the belief that the club had
"not used its corporate powers
"from 1936 to 1953 as the persons
"who were represented to be the
"directors would certainly have
"known and acted as directors
"during these years if the club
"had been using its corporate
"powers. This information is

"club to produce all its books since
"incorporation date. The books of
"the club were produced but as is
"usual in the case of clubs, the
"early books mysteriously were lost
"subsequent to 1924. The club
"stated that the books before 1924
"had been lost or destroyed.

"The Government has found
"[illegible] records [illegible]
"the [illegible] [illegible] of the
"club whose names had appeared as
"directors of the club from 1924
"to 1932. Thus were four such
"applications and directors and three
"were interviewed. The police
"advise us that all three persons
"interviewed claimed that they had
"no connection with the club since
"incorporation. They gives also
"as the reason that the club had
"not used its corporate powers
"from 1924 to 1932 as the persons
"who were represented to be the
"directors [illegible]
"known and acted as directors
"during those years if the club
"had been using its corporate
"powers. This information is

"somewhat substantiated by certain evidence
"which was given in the case of
"R v. Harry Swartz before Magistrate
"Graham in October, 1958. In that
" "case evidence was given by a witness
"that the sum of $3200 was paid to
"Harry Swartz for a club charter.

"Accordingly I wrote to the
"club on February 25th, 1960,
"advising that it appeared that the
"corporate powers had been forfeited
"some years ago under Section 27
"of the former Companies Act. I
"also advised the club that it had
"been brought to our attentim that
"there was strong evidence that
"the club was operating its
"premises as a common gaming house
"in contravention of the Criminal
"Code. We advised the club that
"we were unable to overlook these
"matters and the letters patent
"would be cancelled one week from
"the date of my letter. This
"gave the club one week to request
"a hearing to show they were
"entitled if they so desired.

"Mr. Frank Nasso, Barrister,
"in Toronto, acting for the club

"called me and requested a hearing and
"I fixed the date for such hearing for
"Tuesday, March 15th, at 10.00 a.m.,
"at my office. On Monday, March 14th,
"the day before the hearing, Mr.
"Nasso called me and advised that
"his clients would not be present
"at the hearing. He did not ask for
"an adjournment nor did he give any
"indication that they would appear
"in the future. From my conversation
"with him I gathered that his clients
"had no intent to come to any hearing
"and he advised me he had withdrawn
"from the case.

"At 10.00 a.m. on Tuesday,
"March 15th, the Toronto Police
"appeared for the hearing but the
"club or its legal representative
"made no appearance. We waited
"for half an hour and when the club
"or its representative still made
"no appearance we proceeded to
"take evidence from the Metropolitan
"Toronto Police. From the evidence
"taken from the Police it appeared,
"as above stated, that the ~~xxxx~~ so-
"called directors whose names
"appear in the annual returns for

"called me and requested a hearing and
"I fixed the date for such hearing for
"[illegible], [illegible], [illegible],
"at my office. On Monday, March 7th,
"the day before the hearing, Mr.
"Mears called me and advised that
"the claimants would not be present
"at the hearing. He did not ask for
"an adjournment nor did he give any
"indication that they would appear
"in the future. From my conversation
"with him I understood that his clients
"had no intent to come to any hearing
"and he advised me he had withdrawn
"[illegible] [illegible].

"At 10.00 a.m. on February,
"[illegible] [illegible] [illegible]
"appeared for the hearing but the
"arm or its legal representative
"made no appearance. He waited
"for half an hour and when the claim
"or its representative still made
"no appearance he proceeded to
"take evidence from the Metropolitan
"Toronto Police. From the evidence
"taken from the police it appeared,
"as above stated, that this man so-
"called [illegible] [illegible]
"appear in the small returns for

"1936 to 1953 knew nothing of the club
"or anything about its activities.
"Therefore it appears that the charter
"was allowed to lapse during the
"years 1936 to 1953 and the corporate
"powers were forfeited automatically.
"Also it appears from the evidence
"of the Toronto Police that a number
"of raids have been made upon the
"premises.

"There are numerous telephone
"calls while the police are on the
"premises to which the person who
"answers the phone merely advises
"that the police are there and hangs
"up the receiver.

"Also there is evidence that
"bets are being recorded on the
"top of an arborite table with a
"damp rag to wipe out the figures
"after they are taken down.

"The premises are frequented
"by persons who have long criminal
"and gambling records.

"In view of the above it appears
"that the corporate powers of this
"club have been forfeited under the
"former Companies Act for non-user
"and notwithstanding such forfeiture,

"1930 to 1933 knew nothing of the club
"or anything from any secretary.
"Therefore it appears that the charter
"was allowed to issue during the
"years 1930 to 1933 and the corporate
"papers were certainly [illegible].
"Also it appears from the evidence
"of the Toronto Police that a number
"of raids have been made upon the
"premises.

"Every one [illegible]
"calls while the police are on the
"premises to which the person who
"answers the phone merely gives an
"[illegible] the times and [illegible]
"of the raids.

"The money is evidently [illegible]
"bets are being recorded on the
"top of an ordinary table with a
"damp rag to wipe out the figures
"after they are taken down.

"The premises are frequented
"by persons who have long criminal
"and gambling records.

"In view of the above it appears
"that the corporate powers of this
"club have been forfeited under the
"[illegible] and for [illegible]
"and notwithstanding such forfeiture.

"the club has purported to use its powers,
"which is the grounds for cancellation
"of the charter.

"Also from the evidence it appears
"that there is a possibility that the
"club is being operated for illegal
"gaming and betting purposes.

"In the circumstances I would
"strongly recommend, especially on the
"basis that the club powers have been
"forfeited and that the club has
"operated notwithstanding such
"forfeiture, that the charter be
"cancelled."

Q. Now, it would appear that the grounds for forfeiture have been in existence in your file since 1953 and the cancellation was in 1960?

A. That is right.

Q. The arrears of returns were filed, their annual returns for 1936 to 1953 were filed all at once?

A. Yes.

Q. All at one time?

A. Yes.

Q. Subsequently the $3200 marked quite a depreciation over the incorporation fee?

A. Yes.

"the club has purported to use its powers,
"which is the grounds for cancellation
"of the charter.

"Also from the evidence it appears
"that there is a possibility that the
"club is being encouraged for illegal
"gambling and betting purposes.

"In the circumstances I would
"strongly recommend, especially on the
"basis that the club powers have been
"forfeited and that the club has
"[illegible]
"forfeiture, that the charter be
"cancelled."

Q. Now, it would appear that the grounds for forfeiture have been in existence in your file since 1953 and the cancellation was in 1959?

A. That is right.

Q. The average of returns were filed, about annual returns for 1936 to 1959 were filed all at once?

A. Yes.

Q. All at one time?

A. Yes.

Q. Suppose only the 1960 charter [illegible] year?

A. Yes.

A/3

Q. Was there any investigation carried out to find out if the club was sold for that amount of money or any other amount of money?

A. We wouldn't do that, we cancelled the charter.

Q. Will you turn now to your files, which I know are rather difficult for you to organize. You have the group of files which covers the Ringside Club, the Queen City and Lakeview, and the Club "U"?

A. Yes.

Q. I would like to start with No. 0-51328, and I think that one is headed "Queen City" -- I am not sure.

A. Yes, that is the file.

Q. That is No. 0-51328?

A. It is headed "Queen City Chess and Athletic Club".

THE COMMISSIONER: You said it was the letter "U"?

A. Yes, the letter "U".

MR. ESTEY: Q. What is next?

A. The Queen City Chess and Bridge Club and the Ringside Athletic Club and then there is in the file a reference to the Lakeview Athletic Club.

Q. Now, as a matter of convenience, can you tell me and these gentlemen where we will find reference to these clubs in the

amount of money or any other amount of money?

A. We wouldn't do that, he concluded the character.

Q. Will you turn now to your Exhibit, which I know are rather difficult for you to organize. You have the group of files which contain the Hungarian Club, the Roman Club and Lakeview, and the Club "U"?

A. Yes.

Q. I think that is correct, Mr. [illegible], and I have checked based "Roman Club" -- I do not find.

A. Yes, that is the file.

Q. Just a moment, [illegible]

A. It is headed "Roman Club Drama and Musicale Club".

THE COURTSEMBLY: You said it was the letter "U"?

A. Yes, the letter "U".

Q. [illegible] I. Does it [illegible]

A. The Roman Club Drama and Musicale Club and the Hungarian Club and then there is in the file a reference to the Lakeview Dramatic Club.

Q. Now, as a matter of convenience, can you tell me and these gentlemen where we will find reference to these clubs in the

brief?

MR. WILSON: You will find the Ringside Club and the Queen City Club under "J", also the Club "U" and the reference for the first two, the Ringside and the Queen City, is at 817, page 20 of Appendix J. Club "U" is J-912, and 20, and in the case of Lakeview it is also in Appendix K-6. I will have to straighten it out but the Club "U" is in K, page 2.

MR. ESTEY: Lakeview, Mr.Commissioner, is discussed in the main brief at 253, page 37.

MR. WILSON: That is the Queen City Chess and Bridge Club. I do not think they are discussed in the main brief. I have no note of it.

THE COMMISSIONER: All right.

MR. ESTEY: Q. On your file do you see a report from Inspector Walker to Chief Mackey dated the 18th of February, 1960?

A. Yes, I have that here.

Q. That is a very lengthy report and at the moment I am only interested in part of it.

A. It is a rather interesting report, Mr. Estey.

Q. How long is it?

A. About a page and a half or a little

briefly.

Mr. [illegible]: Yes. [illegible] the Kingston Club and the Queen City Club under "J", also the Club "U" and the reference to the first two, the Kingside and the Queen City, is at bottom page 20 of Appendix J. Club "U" is J-[illegible], and 20, and in the case of Leamington it is also in Appendix J-[illegible]. I will have to straighten it out but the Club "U" is in K, page 2.

Mr. [illegible]: [illegible], [illegible], is discussed in the main brief at 20, [illegible] 21.

Mr. Abbott: That is the Queen City Chess and Bridge Club. I do not think they are discussed in the main brief. I have no move of it.

[illegible]: [illegible].

Mr. MERRY: Q. Do you recollect [illegible] dated the 16th of February, 1920?

A. Yes, I have that here.

Q. That is a very lengthy report and at the moment I am only interested in part of it.

A. It is a rather interesting [illegible].

[illegible] Mr. [illegible].

Q. [illegible]

A. About a page and a half or a little

over a page.

MR. WILSON: A. What is it?

MR. ESTEY: It is a report from Inspector Walker to Chief Mackey dated the 18th of February, 1960.

MR. WILSON: And in regard to what club?

THE WITNESS: It is Club "U".

MR. ESTEY: I am interested in that portion of the report which carries on similar to the discussions we have read in in regard to the Columbia Bridge and Social Club and you will see on the bottom of the first page he discusses Enrico Cimini?

A. At the bottom of the first page, yes.

Q. That is a reference to Enrico Cimini?

A. Yes.

Q. Will you read that, please?

A. Yes:

"At the conclusion of the above "investigation, the owner of the "premises, who also operates the "Medallion Restaurant on the ground "floor, Mr. Enrico Cimini, 34 years, "52 Westmount Avenue, entered the "premises. He stated during the "conversation at this time that he "was in possession of a charter for

read in part.

Q. [illegible] Q. [illegible] in her

Mr. MERRY: It is a report from Inspector Warner to Chief Hooey dated the 16th of January, 1900.

Mr. WILSON: And in regard to what club?

THE WITNESS: It is Club "G".

Q. [illegible] I am interested in that portion of the report which carries on similar to the discussions we have had in regard to the Columbia Bridge and Social Club and you will see on the bottom of the first page [illegible]

A. At the bottom of the first page, yes.

Q. That is a reference to Amedee [illegible]?

A. Yes.

Q. Will you read that, please?

A. [illegible]

"At the conclusion of the above "[illegible], the [illegible] "presence, who also operates the "[illegible] [illegible] "floor, Mr. Amedee Simard, 34 years, "2a Wabmouth Avenue, entered the "premises. He stayed during the "conversation at this time that he "was in possession of a chamber [illegible]

"the Club 'U'. He further stated that
"he didn't know what to do with the
"charter at this time, as he had
"acquired it from his partner when
"he had purchased his share of a
"restaurant.

"He was asked if he had paid
"any money for this charter and he
"replied, 'It cost me plenty.' He
"was informed that he should turn
"this charter over to the Provincial
"Secretary at the Parliament Buildings.
"Mr. Cimini said that he would do
"this right away.

"On Wednesday, December 30th,
"1959, Mr. Enrico Cimini was inter-
"viewed at his home at 52 Westmount
"Avenue, and when questioned made
"the following statement:

"'My partner, Egisto Federicho,
"bought the charter for the
"Club "U" from Thomas O'Neill,
"a lawyer. I think he paid
"$2,000 but I wasn't there and
"I heard him tell some other
"people. Last August I bought
"my partner's share of the
"restaurant, the Medallion
"Restaurant. I paid $6,000 for

"the Club 'U'. He further asserted that
"he didn't know what to do with the
"[illegible] Club, he said,
"[illegible] from a Detroit [illegible],
"he had purchased his share of a
"restaurant.

"He was asked if he had paid
"any money for this character and he
"replied, 'It cost me plenty,' - he
"was informed that he should turn
"this character over to the Provincial
"[illegible] Detective,
"Mr. Gilmore said that he would do
"this [illegible].

"On [illegible], [illegible],
"[illegible], Mr. [illegible] Lawrence
"viewed at his home at 32 Westmount
"Avenue, and when questioned made
"the following statement:

"On [illegible], [illegible],
"bought the character for the
"Club 'U' from Thomas O'Neill,
"[illegible]. [illegible]
"[illegible] I [illegible]
"I heard his voice come over
"[illegible]. [illegible] I [illegible]
"my partner's share of the
"[illegible]
"restaurant. I paid [illegible]00 for

"'his share and he left the charter
"along as his share of the
"restaurant. When the police
A/4 "came to 1201 St. Clair, the
"Kells Klub, I told the policeman
"that I had a charter for the
"Club "U". I told him that I
"didn't want to use it but a
"few days later near the end
"of November a Mr. Frank Martino
"of the St. Patrick Club came
"and said he would like to have
"the charter. He didn't pay me
"anything for it as he said he
"wanted his lawyer to see it and
"that he would see me after the
"lawyer had checked it. There
"was no price agreed on.'

"On January the 8th, 1960, Mr.
"Frank Martino was interviewed by our
"officers of the Morality Bureau and
"Mr. Martino wouldn't say at this time
"whether he had acquired the charter
"but that some of the members of the
"club had asked him to take the
"charter to a lawyer for re-organization.

"As a result of this information
"Mr. Ralph McCreath, solicitor,
"66 King Street West, Empire 8-4843,

"was contacted and he stated that he had "in his possession the charter for the "Club 'U'. He said that in the "latter part of November he had been "retained by Mr. Frank Martino and "Mr. Vincent Demisci, who was an "officer of the club. They had "asked him to bring the minutes of "this club up to date as the members "weren't suitable. They said they "had lost their premises on St. Clair "Avenue West and that they were "looking for a new place to open their "club.

"In view of the foregoing facts "I strongly recommend that represen- "tations be made to the Department "of the Provincial Secretary for "cancellation of the charter held "by the Club 'U'."

Q. That report is dated the 18th of February, 1960?

A. Yes.

Q. I believe the charter was cancelled in June, 1961, is that correct?

A. June 16th, 1961.

Q. Now, I think on the same file, further on, you will find a report from Insepctor Walker to Mr. Lavine, dated the 2nd

"was convinced and he stated that he had
"in his possession the charter for the
"Club 'U'. He said that in the
"latter part of November he had been
"[illegible] by Mr. [illegible] and
"Mr. Vincent Dentent, who was an
"officer of the club. They had
"asked him to bring the charter of
"this club up to date as the members
"weren't entitled. They said they
"had lost their premises on St. Clair
"[illegible]
"looking for a new place to open their
club.

"I also [illegible]
"I strongly recommend that representa-
"tions be made to the Department
"of the Provincial Secretary for
"cancellation of the charter held
"by the Club 'U'."

[illegible] of February, 1907.

A. Yes.

Q. I believe the charter was cancelled in June, 1901, is that correct?

A. June 14th, 1901.

Q. Now, I [illegible]
Inspector on, you will find a return from Inspector Walker to Mr. Levine, dated the 2nd

of March, 1961?

A. Yes, I have that.

Q. Do you notice about midway through the report, I think under the heading "Queen City", it mentions that, "In 1958 I remember signing a receipt so the charter could be legally sold." Do you see that -- it also mentions the price?

THE COMMISSIONER: Who is talking?

MR. ESTEY: Inspector Walker is interviewing Mr. Crompton.

Q. Would you read the interview the Insppctor had with Mr.Crompton?

THE COMMISSIONER: Just a minute. That is an interview the Inspector had with what is his name?

MR. ESTEY: Charles A. Crompton, St. Germaine Avenue.

THE COMMISSIONER: Yes.

THE WITNESS: I took this from the office record. It says:

"I am Charles Compton, formerly "of 37 Scarborough Boulevard. I was "one of the members of the Queen City "Chess and Bridge Club. Five of us "organized it, myself, Mr. R.E. Morton, "and Mr. Freedman, and two others, I "don't remember their names.

"At that time charter clubs

"were easily obtained, so we applied
"through a solicitor and I was one.
"The club remained fairly active
"until the beginning of the war,
"at which time it ceased to function
"because of lack of membership.
"At best the club had approximately
"40 or 50 members. We held
"numerous chess tournaments and,
"in fact, had a Dominion Champion-
"ship game one year. We held
"several meetings regarding these
"tournaments, but I don't recall
"going to any annual meetings
"since just before the war.

"Several years ago, I believe
"in 1958, Mr. Freedman contacted me,
"as did Mr. Keyfetz, solicitor,
"asking if I would be willing to
"sell the club. I agreed, and
"after Mr. Keyfetz found abuyer,
"I and the others signed the papers
"given us and the club was sold
"for $250. Each of us received
"$50. I think the man
"who bought the club was Mr.
"Bluestein. I never met the man
"as all of this was done by Mr.
Keyfetz, the solicitor, and Mr. Freedman."

(Page 12985 follows)

B/1/FAL

MR. ESTEY: Q. That is the end of the memorandum.

A. Not of the memorandum; that is Mr. Crompton's statement.

Q. That is fine. Would you turn on the same file to a memorandum dated the 8th April, 1958. My records show it to be, Mr. Cudney, still on O-18568, a small piece of paper dated 8th of April, 1958.

A. O-18568?

Q. Yes.

A. That would be another file.

Q. I am sorry. I have changed files.

A. That is dated May --

THE COMMISSIONER: April 8.

A. There is no letter of that date on O-18568. It may be on this file (indicating).

MR. ESTEY: Q. It deals with Queen City Chess and Bridge Club. It is in the same file as the annual returns for the Queen City Chess and Bridge Club.

THE COMMISSIONER: He has got it now. Maybe if you look over his shoulder you would see it. You know what you want.

A. March 8?

Q. No, April 8.

MR. ESTEY: Q. 1958. Here we are (indicating).

THE COMMISSIONER: What is it?

MR. HUNNY: Q. That is the end of the memorandum.

A. Not of the memorandum; that is Mr. Crompton's statement.

Q. That is true. Would you turn on the same file to a memorandum dated the 7th April, 1955. My records show it to be, Sir, [illegible], a small blue paper dated 7th of April, 1955.

A. [illegible]

Q. Yes.

A. That would be another file.

Q. I am [illegible]

A. [illegible]

[illegible]

A. There is no letter of that date on G-1955. It may be on this file (indicating).

Mr. [illegible] Q. [illegible] Queen City Queen and Bridge Club. It is in the same file as the annual returns for the Queen City Queen and Bridge Club.

THE COMMISSIONER: He has got it now. Maybe if you look over his shoulder you would see it. You know what you want.

A. Manon 37

Q. No, April 8.

Mr. HUNNY: Q. 1955. Here we are (indicating).

THE COMMISSIONER: What is 1?

MR. ESTEY: It is a document, No. C-42936. It is a memorandum dated the 3rd of April, 1958, signed in typewriting "Queen City Chess and Bridge Club", and bears the date of receipt of the Provincial Secretary, 8th April, 1958.

Q. Is that right?

A. Yes, April 8, 1958, received.

THE COMMISSIONER: Q. What is it, a memorandum signed by -- ? Just read it, now.

A. It is a slip of paper. It says:

"This charter has been sold.

"For further information contact

"Mr. Carl K. Keyfetz, Q.C., 347

"Bay Street."

Q. Just a moment.

A. Then, my lord, there is typed on "Queen City Chess and Bridge Club". It isn't signed.

MR. ESTEY: Q. That document was received in the ordinary courseof mail and put on the Provincial Secretary's file. Can you tell us whether or not any action was taken?

THE COMMISSIONER: Q. When was it received?

A. April 8, 1958, my lord.

MR. ESTEY: Q. What action, if any, was taken by the Department on receipt of that memorandum?

A. Apparently no action was. It must

MR. HENRY: It is a document, No. C-[illegible].

It is a memorandum dated the 3rd of April, 1945, [illegible] in [illegible] "[illegible] and Bridge Club", and bears the date of receipt of the Provincial Secretary, 6th April, 1945.

Q. Is that [illegible]

A. Yes, April 6, 1945, receive.

THE COMMISSIONER: Q. What is it, a memorandum signed by --? Just read it, now.

A. It is a slip of paper. It says: "This character has been sold.

[illegible]

[illegible], Sam J. [illegible], Ltd., [illegible]

"Bay Street."

Q. Just a moment.

A. Then, my Lord, there is typed on [illegible] "[illegible]". [illegible] signed.

MR. HENRY: Q. This document was received in the ordinary course of mail and put on the Provincial Secretary's file. Can you tell us whether or not any action was taken?

THE COMMISSIONER: Q. When was it received?

A. [illegible] in [illegible].

MR. HENRY: Q. What action, if any, was taken by the Department on receipt of this memorandum?

A. [illegible]

have been just received and put on the file.

Q. When was the charter cancelled?

A. It was cancelled June 16, 1961.

Q. Now, these are the -- This is one of the group of charters referred to during the examinations here of Mr. Bluestein and somewhere in these five files there is a report, I think you will agree without taking time to find it, there is a report to the effect an offer was made during the prosecution that these three charters be surrendered and be returned for a conviction against the Lakeview Club and a withdrawal of the charges against the individual defendants.

A. There was an offer.

THE COMMISSIONER: Q. What are the three clubs?

A. Ringside Athletic Club, the Queen City Chess and Bridge Club and the Lakeview.

Q. The Lakeview would be cancelled, anyhow, if there was a conviction.

MR. ESTEY: Q. What was done by the Department in connection with investigating that offer, the proposal, Mr. Cudney? Was there action taken to cancel the three charters?

THE COMMISSIONER: What was the date of that proposal?

MR. ESTEY: Q. Perhaps we can find the report.

A. There is a memorandum -- By the way, --

Q. It is shown on the 27th of January, 1961, Inspector Walker's report forwarded to you, I think on 1 February, 1961. That may be hard to find. You have a control file, I believe?

A. Yes.

Q. Which covers these three clubs?

A. I have it here. It is from Inspector Walker's report you want to read the proposition included?

" While awaiting the hearing
"of the charges against the afore-
"mentioned Club . . ." -

I take it that was the Lakeview -

". . . and persons, several attempts
"were made to have the charges against
"the men withdrawn on the understand-
"ing that the Club would plead guilty
"to the charges laid. One of the
"propositions made included the
"surrendering of the Charters of
"the Ringside AthleticClub and the
"Queen City Chess and Bridge Club.
"This proposition was not, of course,
"entertained and the charges
"originally laid were proceeded with
"by the Court."

A. There is a memorandum -- By the way, --

Q. It is about in the 1970's, I think. Director Butler's report included in you. I think on 1 February, 1971. That may be used to find. You have a control file, I believe?

A. Yes.

Q. Which covers those three clubs?

A. I have no doubt. As is from Inspector Walker's report you want to read the prosecution included?

Q. While looking for evidence

"of the charges against the above-
"mentioned Club . . ." ?

I take it that was the Lakeview -

". . . and persons, several attempts
"were made to have the charges against
"the men withdrawn on the understand-
"ing that the Club would plead guilty
"to the charges laid. One of the
"propositions made included the
"surrendering of the Charters of
"the Kingside Athletic Club and the
"Queen City Chess and Bridge Club.
"This proposition was not, of course,
"entertained and the charges
"originally laid were proceeded with
"by the Court."

This was Inspector Walker's report on January 27, 1961.

THE COMMISSIONER: Q. Received by your Department on February 1, 1961?

A. I beg your pardon, my lord?

Q. Received by your Department on February 1,1961, as I understood you to say.

A. The date. It is dated 2 so -- Yes, likely February 2 or 1.

MR. ESTEY: Q. Then, I think there is a memorandum to the Minister by Mr. Lavine on the 10th of February, 1961, discussing these files.

A. February 10. There is a memorandum from Mr. Lavine to Mr. Yaremko, re Lakeview, Queen City and Ringside:

" The Metropolitan Toronto Police "have adised that the Vice-President, "the secretary-treasurer and a member "of the Lakeview Athletic Club were "each convicted of keeping a common "betting house on the premises of "the club, and were each imprisoned "two months in jail, plus $15,000. "or an additional four months in jail.

" They therefore request that "the charter of this club be cancelled.

" In addition, they wish the "Department to cancel the charter of

This was Inspector Walker's report on January 27, 1901.

THE COMMISSIONER: Q. Received by your department on February 2, 1901?

A. I beg your pardon, my lord?

Q. Received in your department in February 1, 1901, as I understood you to say.

A. The date. It is dated 2 so -- Yes, likely February 2 or 1.

MR. MERRY: Q. Then, I think there is a memorandum to the Minister by Mr. Irving on the 26th of January, 1901, discussing these claims.

A. February 10. There is a [illegible] from Mr. Taylor to Mr. Venables, re Lakeview, Green City and Kingsdale:

"The Kingsdale Athletic Club
"was added unto the Vancouver-Lakeview,
"the secretary-treasurer and a member
"of the Lakeview Athletic Club were
"each convicted of keeping a common
"betting house on the premises of
"the club, and were each imprisoned
"two months in jail, plus fine, 1901.
"or an additional four months in jail.
" They therefore request that
"the charter of this club be cancelled.
" In addition, they wish the
"[illegible]

"Queen City Chess and Bridge Club
"and the Ringside Athletic Club.
"The only reason that the police
"have for requesting the cancellation
"of the latter two clubs is that they
"are controlled by the same people
"that control Lakeview Athletic
"Club, and the only evidence offered
"in support of this by the police is
"that when charges were laid against
"the officers of Lakeview Athletic
"Club they asked the police to have
"the charges withdrawn on the under-
"standing that the club would plead
"guilty and that they would also
"surrender the charters of the
"Ringside and Queen City Clubs. From
"the file of each club, the only
"connection appears to be that the
"president of the Ringside Club was
"also the vice-president of the
"Lakeview Club."

Q. I take it you were away at that time, Mr. Cudney?

A. I was away at that time, yes.

Q. And that memorandum, I believe, represents the only discussion in your departmental file of this rather unusual proposition? Am I correct, to your knowledge?

A. Yes. There is a further -- Pardon me. There is a further memorandum from Mr. Lavine to Mr. Yaremko on March 16, referring to Ringside and Queen City.

Q. Yes. That does not refer to the offer to surrender all three charters, does it?

A. No, it doesn't. That seems to be the only reference on file.

Q. That memorandum concludes, does it not, "There seems to be no reason why these charters should be cancelled"?

A. This is in the memorandum of March 16?

Q. Yes. Would you mind reading that last sentence?

THE COMMISSIONER: I thought you were taking of a memorandum from Mr. Lavine to Mr. Yaremko of February 16, (sic) 1961.

MR. ESTEY: Yes, and there is a further memorandum between the same two parties dated March 16, 1961.

A. Yes.

" Re: Ringside Athletic Club
Queen City Chess and Bridge Club

" On February 1st, Chief Mackey "wrote to this department requesting "that the charters of the above three "clubs be cancelled.

" The charter of Lakeview Athletic

A. Yes. [illegible]

Trustee Mr. [illegible] memorandum from Mr. Bruton to Mr. Yamamoto on March 13, referring to Matsuoka and Sasaki also.

Q. Yes. That does not refer to the Trustee to accommodate all those members, does it?

A. No, it doesn't. That seems to be the only conference on [illegible].

Q. That memorandum concludes, does it not, "There seems to be no reason why these conferences should be abolished"?

A. This is in the memorandum of March 13?

Q. Yes. Would you mind reading the last sentence?

THE COMMISSIONER: I thought you were talking of a memorandum from Mr. Bruton to Mr. Yamamoto of March 13, 1951.

Mr. [illegible]: Yes, and there is a further memorandum between the same two parties dated March 16, 1951.

A. Yes.

" Re: Hungtuce Athletic Club, Green City Cross and Bridge Club

" In Trustee Ins. Trust Trust

"Notice to this [illegible]

"that the charters of the above three

"clubs be cancelled.

" The charter of Lakeview Athletic

"Club has now been cancelled and
"Mr. Mackey has been informed.
" The reason why the police
"wished the charters of the other
"two clubs to be cancelled is set
"out in the third paragraph of my
"letter of February 10th.
" Subsequently I wrote to
"Inspector Walker requesting further
"particulars with respect to the
"proposition referred to by the
"police.
" I am now in receipt of a
"lengthy letter from Inspector Walker,
"but it does not however add anything
"to what was contained previously
"in his memorandum of February 27
"to Chief Mackey.
" The only reason advanced for
"cancelling the charters of the other
"two clubs is that the president of
"Ringside Athletic Club was the vice
"president of Lakeview Athletic Club,
"and the vice president of Ringside
"Athletic Club was the secretary
"treasurer of Lakeview Athletic Club.
" From this there would not
"appear to be any reason why the
"two charters should be cancelled."

Q. Let us deal with that for a moment.

THE COMMISSIONER: Q. Give me the personnel? You say the president of Lakeview --

A. Pardon me. The president of Ringside was the vice-president of Lakeview.

Q. The president of Ringside was who?

MR. WILSON: Zeldon, I think.

MR. ESTEY: Zeldon was the president of Ringside, Mr. Commissioner.

THE COMMISSIONER: What are his initials?

MR. ESTEY: Joseph Zeldon.

THE COMMISSIONER: Who was vice-president of Ringside?

MR. ESTEY: No, he was president of Ringside and vice-president of Lakeview.

THE COMMISSIONER: Lakeview.

And the vice-president of Ringside, whose name was what?

MR. ESTEY: Binder. Binder's first name is Sam. Sam Binder was vice-president of Ringside and the secretary-treasurer of Lakeview.

Q. I think, Mr. Cudney, while we are on the subject of these interlocking officers we might look at Inspector Walker's report again, dated the 2nd of March, 1961.

A. Yes.

Q. This information is all set out under the heading "Re Ringside Club". Do you

Q. Let us deal with one for a moment.

THE COMMISSIONER: Q. Give me the [illegible] the vice-president of Dingwide —

A. Pardon me. The president of Dingwide was the vice-president of Lacevick.

Q. The president of Dingwide was [illegible]

[illegible]

MR. MARTIN: Seldon was the president of [illegible].

THE COMMISSIONER: What are his initials?

[illegible]

[illegible]

[illegible]

[illegible]

And the vice-president of Dingwide, [illegible]

[illegible]

is Sam. Sam Zinder was vice-president of [illegible]

Q. I return, Mr. [illegible] are on the subject of these interlocking officers we might look at Inspector Wallace's [illegible]

A. Yes.

Q. [illegible] under the heading "Re Ranjside Club". Do you

see that? 2nd of March, 1961. Walker to Lavine, re Ringside Club. It sets out the interlocking officers of those two clubs and, then, it goes on to deal with the further interlocking of the Somerset and the Atlas Clubs. Is that right?

A. That is a lengthy report here, Mr. Estey. I just can't find it.

Q. If you cannot find it quickly we will go on.

THE COMMISSIONER: No, I am interested in that.

Unless you are coming back to it?

MR. ESTEY: The Inspector deals with it, my lord, at page 2 of his report.

THE COMMISSIONER: Inspector Walker?

MR. ESTEY: Yes, in the report dated the 2nd March, 1961, on page 2.

Q. Mr. Cudney, if you would read those paragraphs dealing with the question of interlocking officers.

A. He says, my lord:

" Further investigations were "conducted which revealed that the "officers of the Ringside Athletic "Club, when located at 8 Brunswick "Avenue, included Joseph Zeldon, "137 Latimer Avenue, who was shown "as the President of this corporation

see there? 2nd of March, 1951. Walking to
Avalon, to Rangside Club. To seek out the
intercheeking officers of those two clubs and,
then, to go on to deal with the further inter-
locking of the Somerset and the Avalon Clubs.
Is that right?

A. That is a lengthy report from
Mr. Bevoy. I just can't find it.

Q. If you cannot find it, you
should say so.

THE COMMISSIONER: No, I am interested
in this.

Unless you are coming back to it?

MR. HENRY: The Inspector deals with it,
my Lord, at page 2 of his report.

Q. Mr. Gadney, if you would read
that paragraph dealing with the question
of interlocking officers.

A. He says, my Lord:

"Previous investigations have
"officers of the Rangside Athletic
"Club, which located at 3 Brunswick
"Avenue, included Joseph Kelson,
"the Vallon Avenue, as the first
"as the President of this corporation

"in 1959 and who is now listed as "Vice-President of the Lakeview "Athletic Club. Samuel Binder, "87 Marchmount Road, now living at "16 Peverill Hill Road, Vice- "President of the Ringside Athletic "Club from 1953 to 1956, is now "listed as the Secretary-Treasurer "and Steward of the Lakeview Athletic "Club. A constant frequenter of "both the Ringside Athletic Club and "Lakeview Athletic Club was Max "Bluestein."

That seems to deal with, my lord, the end of the interlocking officers.

THE COMMISSIONER: Just a moment. I want to get something else.

A. There is another one here, my lord: " Other officers of the Ringside "AthleticClub were Saul Borenstein, "8 Leeds Avenue, President from 1953 "to 1959, presently employed as Steward "of the Somerset Club, 4126 Bathurst "Street, which club is also under "investigation regarding illegal "gambling activities; Benjamin "Nefsky, 237 Beverley Street, who was "on the executive from 1956 to 1959 and "is now listed as the Secretary-

"in 1959 and who is now listed as
"Vice-President of the Quality
"Supply Div., Cross Company,
"97 Merchmount Road, now living at
"[illegible] 3001 Ave, Vice-
"President of the Ridgeside Athletic
"Club from 1953 to 1955, is now
"listed as the Secretary-Treasurer
"and Steward of the Lakeview Athletic
"Club. A constant frequentor of
"[illegible]
"Lakeview Athletic Club was Jon
"Schroeder."

That seems to deal with, my lord, the
end of the interlocking officers.

THE COMMISSIONER: Just a moment. I
want to get something else.

A. There is another one here, my lord:
"[illegible]
"Athletic with Real Estate,
"1 Lake Avenue, Syracuse [illegible]
"In 1949, presently employed as Steward
"of the Somerset Club, 4125 Hathaway
"Street, [illegible]
"[illegible]
"[illegible]
"[illegible], [illegible]
"on the executive from 1955 to 1958 and
"is now listed as the Secretary-

"Treasurer of the Atlas Club,
"287 Spadina Avenue, which club
"is also under investigation
"regarding illegal gambling
"activities."

And he mentions the Queen City. He mentions the direction of Bernard Freedman.

MR. ESTEY: Q. He says Mr. Freedman said the Queen City was dormant from 1952 to 1957, does he not? It was the reference on the 12th of May, 1957.

A. Yes.

" On May 12th,1952, a letter
"was sent to the Deputy Provincial
"Secretary by Mr. Freedman, advising
"that the club had slowly died out,
B/3 "had not met in the last five years, . . ."

That was in 1952 he advised that the club had not met for five years.

THE COMMISSIONER: To go back, Mr. Estey, to something that was said earlier: Mr. Keyfetz acted for the buyer of the Queen City Chess and Bridge Club, who paid $250 for the charter, and was a Mr. Bluestein. What was Mr. Bluestein's first name?

MR. ESTEY: That did not come out, my lord. I asked Mr. Bluestein about it and all he said was that if anybody bought it it wasn't Irving.

"Thousands [illegible] Queen City,

"[illegible] Queen City, with the

"[illegible] Liberal [illegible]

"[illegible] Liberal [illegible]

"[illegible]."

[illegible] the [illegible] Club. The [illegible] [illegible] of [illegible].

Mr. [illegible]: Q. [illegible] said the Queen City was document from 1920 to 1927, does he not? It was the reference on the [illegible] of [illegible], [illegible].

A. Yes.

Q. [illegible] Liberal Club, a [illegible] "was sent to the Deputy Provincial [illegible] [illegible], [illegible]

"that the club had slowly died out,

"had not met in the last five years, . . ."

That was in 1928 he assumed that the club had not met for five years.

THE COMMISSIONER: To go back, Mr. Henry, to something that was said earlier: Mr. Hagerman acted for the buyer of the Queen City Cross and Bridge Club, who paid [illegible] for the charter, and was a Mr. Dinsdale. What was Mr. [illegible]'s first name?

MR. HENRY: That did not come out, my Lord. I asked Mr. Minsdale about it and all he said was that it already bought it in [illegible]'s Irving.

THE COMMISSIONER: But Irving became the president.

MR. ESTEY: Yes. Immediately after it is reported the Queen City returns show Irving Bluestein becomes the president of the club, for the first time on the annual return for the period ending 31st March, 1959. Mr. Max Bluestein in the witness box here denied knowing a Bernard Freedman and I read to him this quotation from that police report and he said he did not know anything about it.

Q. Now, Mr. Cudney, I want to ask you one or two more questions about the memorandum of Mr. Lavine dated the 16th March, 1961, which you had before you a moment ago. That report concludes by saying he sees no reason why these charters should be cancelled.

A. Yes.

Q. And the report omits any mention of the proposal that the charters be surrendered in return for a plea to the charge?

A. That is on March -- on March 16, 1961.

Q. The one of the 10th of March, he did. I am dealing with the March 16, where he says he sees no reason why they should.

A. Yes; on February 10, 1961.

THE COMMISSIONER: We have that one.

A. There is a note by Mr. Yaremko

THE CHAIRMAN: Mr Irvine moves

— proviso.

MR. MOOR: Yes. Immediately after it is received the Green Guy returns from Irvin, [illegible] becomes the president of the club, [illegible] the period ending 31st March, 1929. Mr. [illegible] it has always been my duty [illegible] making a formal proposal and I read to him [illegible] he said he did not know anything about it.

Q. Now, Mr. Gainey, I want to ask you [illegible] memorandum of Mr. Irvine dated the 16th March, 1921, which you had before you a moment ago. That report concludes by saying he does no reason why these answers should be accepted.

A. Yes.

Q. Did the report entail any modification of the proposal that the answers be accepted in return for a loan to the company?

A. There is on March — on March 31, 1921.

Q. The one of the 16th: it March, he did. I am dealing with the March 16, where he says he does no reason why that should.

A. Yes: on February 16, 1921.

THE CHAIRMAN: We have that one.

A. There is a note by Mr. Irvine

to cancel Lakeview.

Q. In the March 16, 1961, he sees no reason why it should be cancelled.

A. Yes.

MR. ESTEY: Q. There is no reference to the fact that these interlocking officers had been convicted?

A. No.

Q. And there is no reference to the report of Mr. Freedman saying the club was dormant?

A. No.

Q. And there is no reference to the statement the charter was purchased for $250 and each of the five officers at the time got $50 apiece, there is no mention of that?

A. No.

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C/FTP/1

Q. And no further action was taken at that time to cancel those three charters?

A. Not at that time, no. An action was taken ---

Q. When you returned?

A. That is right.

Q. Now, Mr. Cudney, may we move along to touch on two or three clubs very briefly. I would like to turn next to Club 21. Mr.. Commissioner, that is on page 12. You might open that file for Mr. Cudney to a letter of 24th November, 1955, and that is on your "C" file. I think it is towards the end of or at the end of your "C" file.

MR. WILSON: Is this referred to anywhere?

THE COMMISSIONER: Yes, Appendix K, page 12.

THE WITNESS: Yes, I have that.

MR. ESTEY: I think that is a letter from Mr. ---

THE COMMISSIONER: When was this incorporated, April 14th, 1947?

MR. ESTEY: Yes, my lord.

THE WITNESS: April 14th, 1947.

MR. ESTEY: Cancelled in April, 1962.

Q. Is that a letter from a person named Ryan to you, Mr. Cudney?

A. It is addressed, it is from L. Ryan addressed to Deputy Provincial Secretary dated

November 24th, 1955, attention Mr. E. Spindle. He was the company returns officer.

Q. Right?

A. Re Club 21. Would you like me to read it?

Q. Well, the effect of it is that it is a notice to you the club was disbanded in 1950, is it not?

A. Yes, inasmuch as the club was disbanded in 1950, he suggests to contact Mr. L. Spears of Frantoni's Tavern who is the gentleman who is in possession of the charter.

Q. He has the charter?

THE COMMISSIONER: Who is Ryan?

MR. ESTEY: Q. Who is Mr. Ryan, does it appear?

A. Lawrence Ryan, my lord, appeared as a director in 1954.

Q. He was one of the incorporators, wasn't he, Lawrence Ryan, furrier, 91 Spadina?

A. Yes, Lawrence Ryan, furrier, City of Toronto, was an incorporator.

Q. And the letter concludes by saying that Speers has the charter?

A. Speers, yes.

Q. Gives his address at some tavern?

A. Frantoni's Tavern.

THE COMMISSIONER: What is Spears' first

Examination of [illegible], Examiner for H. Bourne,

he was the company returns officer.

Q. Inquiry

A. He Club Ex. Would you also go to read for:

Q. Well, the effect of it is that is a notice to you the club was dissolved. Legal, is it not?

A. Yes, Inspection as the club was

[illegible] in [illegible], in Quebec, [illegible].

Mr. L. Dupont of Hammond's Tavern was the gentleman who is in possession of the [illegible].

Q. Is that your [illegible]?

THE CONNAISSEURS: Who is Ryan?

Mr. BERRY: Q. Who is Mr. Ryan, does he [illegible]?

A. Lawrence Ryan, my son, appointed as a director in 1924.

Q. He was one of the incorporators, wasn't he, Lawrence Ryan, Patrick, Jr Spadina?

Q. The Connaisseurs Club, Ltd., of Toronto, was an incorporation.

A. And the legal conclusion of an is [illegible] [illegible] [illegible]?

Q. [illegible], yes.

Q. [illegible] [illegible] [illegible]

A. [illegible] Hammond's [illegible].

THE CONNAISSEURS: Mrs. Ryan Spears' [illegible]

name?

A. Mr. L. Spears.

MR. ESTEY: Q. Would you read the paragraph?

A. He says:

"Inasmuch as the Club 21 disbanded "in 1950, I would suggest you contact "Mr. L. Spears, c/o Frantoni's Tavern, "322 Adelaide West, as this gentleman "is now in possession of the charter."

Q. No action taken according to the file to recover that charter from Mr. Spears?

A. No, there appears to be no action.

Q. Seven years later in 1962 it was cancelled for what grounds, Mr. Cudney? Forfeiture, I think, is one of them, is it?

A. Forfeiture is one, and also moving without consent of the Provincial Secretary under the 1960 amendment.

Q. Now, would you turn to the Glenbrook Golf and Country Club. I think their file is headed "Glenbrook Country Club"?

A. Yes, I have that, Mr. Estey.

Q. Appendix K, page 5. This is shown in Appendix K as being incorporated in 1927, head office in Windsor, Ontario, and a branch at Dundas Street, Toronto, and

[illegible]

[illegible]

Mr. McNab: Q. Would you read the para-
graph?

A. [illegible] to page:

"Immersion of the Club El Olombolo
in 1920, I would suggest you consult
[illegible]
"SEC Andrade was, as this gentleman
[illegible] is now in possession of the answer."

Q. No action been accorded to
the title to recover that answer from Mr.
[illegible]

A. No, there appears to be no action.

Q. Seven years later in 1924 it
was cancelled for what grounds, Mr. Godoy?
Portoitare, I think, is one of them, is it?

A. Portoitare is one, and also
moving without consent of the Provincial
[illegible]

Q. Now, would you turn to the
Glenbrook Golf and Country Club. I think
their title is named "Glenbrook Country
Club"?

A. Yes, I have that, Mr. McNab.

Q. Appendix K, page 5. This is
shown in Appendix K as being incorporated
in 1927, head office in Windsor, Ontario,
and a branch at Buenos Aires, Tucuman, and

an address which was formerly that of the Athenian Bridge and Social Club.

MR. WILSON: You will find it in Appendix J at 8, 14 and 20.

THE COMMISSIONER: The incorporated name was Glenbrook Golf and Country Club?

A. My lord, it is Glenbrook Country Club is the original name. Yes, Glenbrook Country Club.

MR. ESTEY: Q. That is the correct name, I think, is it not?

A. Yes, the name seems to have never been changed.

Q. I didn't know the explanation for Appendix K having the extra word in it. It does not appear in your file. Now, Mr. Cudney, you will see in this file that as far back as 1949 some question arose as to the bona fides of the persons shown as the officers. You see that? We won't take the time to go into it. Do you see there is a letter on the file from one Alec Barrol, November 22nd, 1949, pointing out that the man by the name of Samuel Karavitz who has been shown as director for some time, could not have been a director?

A. November 22nd ---

Q. 1949, on your "C" file.

THE COMMISSIONER: What is that man's

an address which was formerly that of the

[illegible] Avenue.

Mr. WIRSON: You will find it in Appendix 3

at 3, 14 and 20.

[illegible]: Was Inverness Golf

was Glenhook Golf and Country Club?

A. My lord, it is Glenhook Country

Club is the original name. Yes, Glenhook [illegible]

[illegible].

Mr. [illegible]: Q. That is the correct name,

I think, is it not?

A. Yes, the name seems to have never

been changed.

Q. I didn't know the explanation for

Appendix X having the street word in it. I

have not [illegible] in [illegible]. Mr.

Commr, you will see in this file that as

far back as 1943 some question arose as to

the home files or the personnel shown in the

officers. You see that? We won't take

the time to go into it. Do you see there is

a letter of the file from one Alec Bennet,

November 22nd, 1943, pointing out that the

man by the name of Bennet Nowakis who has

been shown as director for some time, could

not have been a director?

A. [illegible] ---

Q. 1943, on your "G" file.

THE COMMISSIONER: Name is Bennet man's

name?

MR. ESTEY: Sam Karavitz.

THE COMMISSIONER: No, no, Barrol, what is his first name?

MR. ESTEY: Alec, could be Barron, but it looks like Barrol.

THE WITNESS: I think it is.

MR. ESTEY: Q. And the letter is to Mr. G.K. Greaves.

A. I don't seem to see that letter. Oh, maybe this is it. Yes, here it is.

THE COMMISSIONER: What is it you have in front of you now?

A. A letter from Mr. Alex Barron, my lord.

MR. ESTEY: Q. Barron?

A. Barron, dated November 19th, 1949, and addressed to Mr. G.K. Greaves who was the company returns officer at that time.

Q. Have I stated the essence of the letter correctly?

THE COMMISSIONER: What is the essence of the letter?

A. Well, he doesn't seem by this letter which is in handwriting, does not seem to have any claim to have any connection with this -- can I just read ---

Q. Read it into the record.

A. "Dear Sir:

[illegible]

Q. [illegible]: Did Barton,

THE COMMISSIONER: Mr. [illegible], what is this first name?

MR. MAHON: Alec, could be Barton, but I know his [illegible].

THE WITNESS: I think it is.

MR. MAHONY: Q. And the letter is to Mr. R.G. Gardner.

A. I don't seem to see that letter.

Q. Maybe this is it. Yes, here it is.

THE COMMISSIONER: What is it you have to tell of you now?

A. A letter from Mr. Alec Barton, [illegible].

Q. [illegible]: Q. [illegible]?

A. Barton, dated November 13th, 1944, and addressed to Mr. G.K. Greaves who was the company mining officer at that time.

Q. Have I stated the substance of the letter [illegible]?

THE COMMISSIONER: What is the substance of the letter?

A. Well, he doesn't seem by this letter which is in [illegible], does not seem to have any claim to have any connection with this -- can I just read ---

Q. [illegible] the [illegible].

A. "Dear Sir:

"Writing on behalf of my fellow
"worker Mr. Sam Karavitz in reply to
"enclosed. Sam claims that
"1. He has not been in Toronto for
"17 years.
"2. He does not belong to any country
"club and never did.
"3. He thinks this a very obvious
"error in your department or else . . . " --
something --
" . . . a bad joke on someone's part
"in using his name.
"4. Or else a very bad case of
"mistaken identity.
"Sam works here as an ordinary
"stock man and has been known to the
"writer for over 12 years. He answers
"to the nickname 'Johnny' and no more
"unlikely looking . . . " --
I can't make out the next word --
" . . . ever belonged to a country
"club.
"The delay in writing was due
"to the writer's illness.
"(Signed) Yours truly, Alex Barron"
He is referring to Sam Karavtiz.

MR. ESTEY: Q. Then he appears in the annual returns, does he not?

A. Yes, he appeared in the 1948 return.

"Without on behalf of my client
"worker Mr. Sam Kenavlis in really so
"[illegible]
"1. He has not been in Toronto for
"[illegible]
"2. He does not belong to any [illegible]
"[illegible]
"3. He strongly urges a very obvious
"error in your determination of case . . . " --
[illegible] --
" . . . a bad joke on someone's part,
"in using his name.
"4. Or else a very bad case of
"mistaken identity.
"Sam works here as an ordinary
"block man and has been known to this
"worker for over 12 years. He answers
"to the nickname 'Johnny' and no more
"unlikely looking . . . " --
I can't make out the next word --
" . . . also [illegible] in a [illegible]
[illegible].
"The derby in writing, was due
"to the [illegible] illness.
"(Signed) [illegible]
[illegible] as referring to Sam Kenavlis.
Mr. BERNI: Q. When he appears in the
annual return, does he not?
A. Yes, he appeared in the [illegible] return.

Q. As a director?

A. As a director.

Q. And he carries on and I see he is still in the 1950 return?

A. Yes, he appears in the 1950 return.

Q. Now, if you would turn to your old file and look at the report which is a letter from Chief Mackey to yourself and it includes a report of Inspector Walker. The letter to you is dated 26th April, 1960?

A. Yes, I have that.

Q. Do you see in the centre of that report a discussion with a Mr. Shobo?

MR. WILSON: Shabo.

MR. ESTEY: Q. Shabo, and he discusses the value or the price of these charters. Would you read that back to the Commissioner?

A. Just here, Shabo?

Q. Yes, would you read the paragraph on page 2?

A. Yes.

"As the result of complaints "received regarding illegal gambling "activities being carried on and "subsequent observations taken on "the premises located at 3263 "Dundas Street West, an order for "search was executed by officers "of this bureau on Saturday,

[illegible] Mr. [illegible]

[illegible] Mr. [illegible]

Q. And he carries on and I see he is [illegible] in the [illegible] country?

A. Yes, he appears in the [illegible] records.

Q. Now, if you would turn to your [illegible] and look at the report which is a letter from Chief Mealey to [illegible] and is [illegible] [illegible] [illegible]. The letter to you is dated 20th April, [illegible]

A. Yes, I have that.

Q. Do you see in the second or third paragraph a discussion with a Mr. Shoby?

Mr. [illegible]: [illegible].

Mr. Kelly: [illegible] Shoby, and he gives the value or the price of these characters. Would you read that back to the Commissioner?

A. [illegible] Shoby

Q. Yes, would you read the paragraph on page 27?

A. [illegible]

"As the result of complaints "received regarding illegal gambling "activities being carried on and "[illegible] [illegible] "the premises located at 320, "Queen Street West, an order for "access was executed by officers [illegible]

"May 2nd, 1959, at 1.45 a.m. As the
"result of the ensuing investigation,
"Musa Shaba, John Ferrier and
"Lawrence Duncan were charged with
"keeping a common gaming house on
"these premises, with thirteen men
"being charged as found-in. At
"the time of this investigation a
"number of membership application
"forms were found on the premises
"for the Glenbrook Country Club,
"along with a number of membership
"cards for the Greek-Canadian Club.
"When questioned regarding the
"aforementioned clubs, Shaba
"stated that he had been offered
"both charters for the sum of $2,000,
"each from a Toronto solicitor, but
"after some deliberation he had
"decided not to purchase either.
"On May 22nd, 1959, Shaba and Duncan
"were convicted on the stated charge,
"with the charge against Ferrier
"being dismissed. The thirteen
"men found-in were also convicted."

Q. Would you read the paragraph
at the foot of the page?

C/2

THE COMMISSIONER: I am not quite
following that. This was a raid on the

at the foot of the page?

THE COMMISSIONER: I am not quite following that. This was a raid on the

premises of the Glenbrook Country Club?

A. Glenbrook Country Club.

MR. WILSON: No, not what it says.

THE COMMISSIONER: What do you say it was?

MR. WILSON : I say it was a raid at 3263 Dundas Street, and at that address they found applications for membership in the Glenbrook Country Club.

THE WITNESS: They found applications for membership in the Greek-Canadian. I am sorry.

MR. ESTEY: Q. "At the time of investigation", you see?

A. "At the time of this investigation
"a number of membership application
"forms were found on the premises
"for the Glenbrook Country Club,
"along with a number of membership
"cards for the Greek-Canadian Club."

The report is in reppect to the Glenbrook Country Club.

THE COMMISSIONER: All right. Now go back a little way and spell out Shaba. Turn the page over.

A. S-h-a-b-a.

Q. He was one of the people found at the time of the raid?

A. Yes, he was found, yes.

Q. And he was interviewed?

members of the Glenbrook Country Club?

A. [illegible] Country Club.

MR. WILSON: No, not that its name.

THE COMMISSIONER: What do you say it was?

MR. WILSON: I may be wrong at 2605 Dunsea Street, and at that address they found applications for membership in the [illegible] Country Club.

[illegible]: [illegible] the maximum in the [illegible] [illegible] money.

MR. [illegible]: Q. [illegible] was [illegible] was [illegible]?

A. "At the time of this investigation "a number of membership application "forms were found on the premises "of the [illegible] [illegible], "along with a number of membership "forms for the Greek-Canadian Club."

The report is in respect to the Glenbrook Country Club.

THE COMMISSIONER: All right. Now go back a little way, and speak out figure. Turn the page over.

A. S-n-a-b-a.

Q. He was one of the people in the [illegible] [illegible] of the [illegible]?

A. Yes, he was found, yes.

Q. And he was [illegible]?

A. Yes.

Q. He said something about having been offered charters?

A. Yes.

Q. Read that part to me again. I didn't grasp it.

A. "When questioned regarding the "aforementioned clubs, Shaba stated . . . "

Q. Excuse me for interrupting. "The aforementioned clubs" -- you refer to the Glenbrook?

A. The Glenbrook and the Greek-Canadian.

"When questioned regarding the "aforementioned clubs, Shaba stated "that he had been offered both "charters for the sum of $2,000, "each from a Toronto solicitor, but "after some deliberation he had "decided not to purchase either."

MR. ESTEY: Would you mind reading in the context of what you have read, Mr.Cudney, the paragraph below that starting "Shortly thereafter", and then would you be good enough to read the paragraph on the next page starting "Archie Adler"?

A. "Shortly thereafter, investigation "revealed that the Nottawa Community "Club charter had been obtained for

"use in lieu of the Greek-Canadian and
"Union Jack (Toronto) Clubs at
"1601 Dundas Street West, resulting
"in an investigation into the Nottawa
"Community Club charter. It was
"ascertained that the latter-mentioned
"charter was similarly used to hide
"illegal gaming and betting activities,
"and again an adverse report was
"directed to the Provincial
"Secretary's Department by the
"Chief of Police. Notification
"was received by this Department on
"March 2nd, 1960, that the Nottawa
"Club charter had been cancelled
"as of March 26, 1960.

. . . . . .

"Archie Adler, although officially
"only a member of Athene Social
"Club, was known to be a manager
"on a number of occasions, when
"investigations were made on the
"premises. He acted in that
"capacity. He stated at this time
"that the premises were now known
"as the Glenbrook Country Club
"and he produced a photostatic
"copy of the charter, remarking
"that he hadreceived notification

"use in lieu of the Green-Ganaraskan and
"Burnt River [Weston] claims.
"In an investigation into the novels
"complained of [illegible]. In one
"instance [illegible] the
"counter was similarly seen to bite
"[illegible] and betting activities,
"and again an adverse report was
"directed to the Provincial
"Secretary's department by the
"[illegible] of Water. [illegible]
"was received by this department on
"March 2nd, 1900, that the novelsa
"[illegible] and [illegible]
"as of March 7th, 1900.

. . . . . .

"Mr. [illegible], [illegible]
"only a member of Atheme Social
"Club, was found to be a manager
"on a number of occasions, when
"investigations were made on the
"premises. He noted in that
"capacity. He stated at that time
"that the premises were now known
"as the Glenbrook Country Club
"[illegible] a [illegible]
"copy of the charter, remarking
"that he had received notification

"from the Provincial Secretary that the
"charter for the Athene Social Club
"had been cancelled the week previous.
"When asked by investigating officers
"how much he had paid for the charter,
"he replied: 'You don't expect me to
"tell you, do you?'. However, he
"went on to say that he had paid
"a corporation lawyer $500 to make
"sure there were no loopholes in it.
"He further stated that he was a
"director of the Glenbrook Country
"Club and had been for a week,
"although he did not know the other
"officers of the club. Adler had
"on his person $351 in bills and
"approximately $5 in change. A
"check of the club cash register
"revealed $61 in small bills.
"Adler said that he had been charging
"ten cents per hour per person for
"cards with a fifty cent maximum.
"Membership cards in the name of
"the Glenbrook Country
"Club for the year 1960-1961 were
"found on the premises, and 32
"of the 39 persons found-in were
"questioned regarding membership.
"Ten were found to be non-members

"while 22 were in possession of Glenbrook "Country Club membership cards.

"Subsequently Adler was charged with "keeping a common gaming house, and "the 39 persons on the premises charged "as being found-in."

Would you like me to read ---

Q. No, that is sufficient for my purposes, Mr. Cudney. Now, Mr. Cudney, let us move on. That charger was subsequently cancelled, was it not?

A. Yes.

Q. December 6th, 1960?

A. Cancelled December 22nd, 1960. It was cancelled on ---

Q. Yesterday, Mr. Cudney, you ---

THE COMMISSIONER: It was cancelled on what ground?

A. On a conviction, my lord, for keeping a common gaming house.

Q. Then they did treat these premises as the premises of the Glenbrook Country Club, Mr. Adler was not charged?

A. I have the old file here, my lord. I wrote to the club on December 15th, 1960, to the effect that one Dennis Lomuti, the vice-president of the club, was convicted of keeping a common gaming house at 799A Dundas Street West, being the premises of the

"While ZZ were in possession of Glenbrook [illegible]

"[illegible]

"[illegible]

"[illegible]

"[illegible]

"[illegible]

"as going [illegible].

Would you like me to read ---

Q. No, what is sufficient for my purposes, Mr. Gadney. Now, Mr. Gurney, let me [illegible]. [illegible] cancelled, was it not?

A. Yes.

Q. [illegible]?

A. [illegible]

It was cancelled on ---

Q. [illegible], Mr. [illegible], on ---

THE CONSTABLE: It was cancelled on [illegible]

A. On a convection, my lord, for keeping a common gaming house.

Q. When they had been there previous on the premises of the Glenbrook Country Club, Mr. Adler was not charged?

A. I have the old file here, my lord. I move to the club on December 12th, 1960, to the street that one Dennis Lorenz, the [illegible] of the club, was arrested of keeping a common gaming house at 1234 Jordan Street West, being the premises of the

club, and advised the charter would be cancelled. I think that is the same premises as mentioned.

MR. WILSON: No, it is different. We are talking about 3263 Dundas before.

THE COMMISSIONER: Perhaps nothing turns on it.

MR. WILSON: I don'tknow that it does.

MR. ESTEY: Q. There is a mention of this question on your memorandum of 2nd May, 1960, to your Mr. Margolian, dealing with the magistrate finding that it was not a bona fide social club. Whatever the address, that seems to be the magistrate's finding. I think it is on that that you acted, Mr. Cudney.

MR. WILSON: The memorandum of Mr. Margolian does not agree with Magistrate Thoburn.

THE WITNESS: I wrote to Mr. Margolian on May 2nd, 1960:

"I am attaching report from the "Inspector of the Morality Bureau "referring to the above club. I "would appreciate it if you would "look over this report and discuss "it with me at your earliest "convenience."

Then there is a memo ---

MR. ESTEY: Q. Then he reported on 22nd

THE WITNESS: I wrote to Mr. Macpherson on May 2nd, 1900:

"I am authorized report from the "Inspector of the Mounted Police "referring to the above club. I "would appreciate it if you would "look over this report and discuss "it when we at your candidate "convenience."

November you received a certificate of conviction of Dennis Lomuti, vice-president of the club, on a charge of keeping. Dennis Lomiti, it looks like.

A. In November, yes, I received, November 24th I received a copy of the conviction.

Q. Yes, and is he shown as vice-president of the club?

A. It says -- well, in the certified copy of conviction it just names Dennis Lomuti.

Q. Was this in the old file ---

THE COMMISSIONER: Does that make any difference?

MR. ESTEY: None to me. The question was asked and I thought I would get the answer.

THE COMMISSIONER: Doesn't make any difference to me.

MR. ESTEY: Let us move on, Mr. Cudney.

MR. WILSON: I mean, if he is suggesting there was delay, there apparently was some reason internally.

THE COMMISSIONER: That is not Mr. Estey's purpose in referring to the Glenbrook Country Club, as I understand it.

MR. ESTEY: No, that is right, my lord.

Q. Mr. Cudney, I would like to turn now to the Arlington Athletic Club. While

November you received a certificate of convention of Bonnie Lomont, vice-president of the club, on a charge of keeping. Bonnie Lomont, do [illegible].

A. In November, yes, I received November 24th I received a copy of the [illegible].

Q. Yes, and is he shown as vice-president of the club?

A. It says -- well, in the certified copy of conviction it just names Bonnie Lomont.

Q. Was that in the old file --

[illegible]

(Laughter.)

MR. KELLY: Move to me. The question was asked and I thought I would get the answer.

[illegible] I don't see any difference to me.

MR. KELLY: Let us move on, Mr. Chief.

MR. KERNON: I mean, if he is a [illegible] since was delay, where apparently was no reason [illegible].

THE CONTROLLER: That is one of Kelly's purpose in referring to the [illegible] meeting also, as I [illegible].

MR. KELLY: No, that is right, my [illegible].

Q. Mr. Conway, I would like to [illegible] the Atlantic Avenue [illegible]

that file is being looked up, you yesterday were searching in your memory for the club that was another example of the branch operations, and the next club I was going to discuss was the Miners' Club, and I think that will call back to your mind ---

A. Yes.

Q. That that was the club you had in mind?

A. Yes. This morning in looking over these others I did happen to get that file out, I am pretty sure. I will just check the file. I have the Arlington file here.

Q. That was incorporated, I think, in 1923?

A. October, 1923.

Q. First of all, I notice on the file away back in 1930 there is a memorandum to the effect that the club, this company has been out of business since 1924 and location of charter unknown.

THE COMMISSIONER: What date is that?

MR. ESTEY: That is the 29th of October, 1930.

THE COMMISSIONER: Memorandum from whom to whom?

MR. ESTEY: It is the Department memorandum signed by the officer controlling revenue, re

that file is being looked at, you yesterday were [illegible] in [illegible] the [illegible] was another example of the branch operations, and [illegible] the [illegible] Company, and I think that [illegible] ——

A. [illegible]

Q. [illegible] [illegible] in [illegible]

A. Yes. That morning in looking [illegible] file was, I am pretty sure. I will just be [illegible].

Q. [illegible] [illegible] in [illegible]

A. [illegible] of all. I notice on the file away back in July there is a memorandum to the effect that the claim, this company has been out of business since [illegible] and [illegible] of another nature.

[illegible]: What date is that?

A. [illegible]: That is the 25th of November, [illegible].

[illegible]

Q. [illegible]: It is the department accounts signed by the officer concerning receipts, to

Arlington Athletic Club.

THE WITNESS: What date is that again, Mr. Estey?

MR. ESTEY: Q. 29th October, 1930.

A. 29th October, 1930.

THE COMMISSIONER: Is what?

A. Is a memorandum from the Controller of Revenue to our Department that Mr. Goodman, Barrister, advises in a letter to the Department that this company has been out of existence since 1924, and the location of the charter is unknown.

MR. ESTEY: Q. Just passing quickly through your "C" file, I think in 1955 you received all at the one time eleven different returns.

(Page 13030 follows)

C/3

THE COMMISSIONER: Under what date?

MR. ESTEY. November 14th, 1955, returns for the years 1945 through 1955.

THE WITNESS: Yes, on November 11th,1955 we received returns for 1945 to 1947 and then - 1945 and also 1947 to 1955 inclusive.

Q. There is a gap. Then I think, Mr. Cudney, in 1962 you acted upon the forfeiture arising from this period and your memorandum, your letter to the club is dated 9th February,1962.

A. Yes, there had been ---

THE COMMISSIONER: Let us have the letter to the club, what they say.

A. February 9th, 1962.

Q. February?

A. February 9th, 1962.

Q. How did I get November?

A. "Re Arlington Athletic Club

" It would appear the the

"corporate powers of the above

"corporation were forfeited for

"non-user under Section 27 of

"The Companies Act or predecessor

"of that section, and that the

"corporation has been purporting

"to operate after such forfeiture.

"I would advise that unless cause

"to the contrary is shown, an order

"will be made on or after
"February 19th, 1962 under
"subsection 1 of Section 326
"of The Corporations Act
"cancelling the letters patent
"of the above corporation for
"cause."

THE COMMISSIONER: Where in the brief, if anywhere, is the Arlington Athletic Club referred to?

MR. ESTEY: In the main brief, my lord, page 33, it is one of the clubs which were named in supplementary information submitted through Commission counsel, and it is listed in Appendix K at page 10.

Q. Now, in your old file, Mr. Cudney, 057062, I would like to ask you one rather unrelated question here. The first document in your file appears to be a memorandum from you to the Minister dated 20th January, 1962. You see that?

A. Yes.

Q. Your letter to the club was dated February 9th, 1962. Now, would you read that memorandum, please?

A. "After my discussion with
"you relative to the above club,
"I wrote the club on February 9th
"advising that the letters patent

Q. Mr. McKay: In the main brief, my lord, page 31, it is one of the clubs which were [illegible] through Confederation counsel, and it is listed in Appendix E on page 10.

Now, in your old file, Mr. Osborne, [illegible], I would like to ask you one reason mentioned question here. The first document in your file appears to be a memorandum from you to the Minister dated 23th January, 1954. Do you see that?

A. Yes.

Q. You refer to the city, was noted Secretary Gen. Ryan. Now, would you read that memorandum, please?

A. "Note on [illegible]

"Your reference to the above club,

"I move the club on Secretary Gen

"[illegible]

"would be cancelled for cause
"on or after February 19th,
"unless cause was shown to the
"contrary. Today I received a
"telephone conversation from Mr.
"Joseph Gould, Q.C. advising that
"yesterday one of the directors
"to whom a copy of the letter of
"cancellation was sent, telephoned
"him. He is not sure whether the
"director wishes to have a hearing
"or not, and asked us to hold the
"letter up in the meantime. I
"requested him to advise us one way
"or the other in writing whether a
"hearing was desired in the course
"of the next day or so."

You see, Mr. Estey, this is a registemd letter on Febmuary 19th to the club.

THE COMMISSIONER: February 19th or 9th?

A. February 9th, my lord, and then this one was January 20th. I think it should be February 20th.

MR. ESTEY: Q. I see. All right.

A. They have got the date wrong.

Q. I couldn't see how Gould would know about that letter two weeks ahead of it.

A. It followed the letter of the 9th which was a registered letter, this went

"man. He is not sure whether the
"letter came in May's [illegible]
"or not, but found it [illegible]
"[illegible] of it for [illegible].
"[illegible] was [illegible] as you say
"or the other in writing whether a
"meeting was desired in the course
"of the next day or so."

You see, Mr. [illegible], that it [illegible]
on February 19th to the club.

[illegible] February [illegible]

A. February 19th, my lord, and then this one was January 20th. I think it should be February 20th.

Mr. [illegible]: [illegible] I see. All [illegible].

A. They have got the date wrong.

Q. I couldn't see how Gould could know about that letter two weeks ahead of it.

A. It followed the letter of the [illegible] [illegible]

out.

Q. I am interested in the report on your old file from Inspector Thurston to Mr. Elliott which is forwarded to you on the 29th of January, 1962. The actual date of Inspector Thurston's report is 26th January, 1962.

A. Yes, I have that.

Q. This is a very long report, and I would like you to read any part you think is germaine, but I would like you to read from page 3, and would you read, please, the second full paragraph on that page which starts "On August 8th, 1960".

A. "On August 8th, 1960 Mr. Charles "Davey of 1527 Mississauga Road, who "first appears as the president of "the Arlington Club in the 1938 annual "return, was interviewed by Detective "William Mitchell, Morality Bureau. "Mr. Davey stated: 'Along with Nat "Sandler we acquired the club charter "in 1939. It was political at that "time. Just how we got it and from "whom I would rather not say. I "operated the Arlington Club for about "seven years and then I applied for "a public house licence in the name "of the Arlington Public House. Then

out.

[illegible] in the report on [illegible] Union is forwarded to you on the 26th of [illegible], 1929. [illegible] Commissioner's report in [illegible], 1926.

A. [illegible] I have [illegible].

Q. This is a very long report, and I would like you to read any part you think is important, but I would like you to read from page 3, and would you read, please, the second full paragraph on that page which starts "On August 8th, 1926".

A. "On August 8th, 1926 Mr. Charles "Davey of 1927 Massachusetts Road, who "first appears as the president of "the Arlington Club in the 1926 annual "report, was interviewed by detective "William McCarthy, [illegible]. "Mr. Davey stated: 'Along with the "gambling we conducted the club's "in 1926. It was political at that "time. Just how we got it and from "whom I would rather not say. I "operated the Arlington Club for "seven years and then I applied for "a public house license in the name "of the [illegible] Social Club. [illegible]

"when this was granted I had no
"use for the charter and it laid
"dormant for eight years. There
"were no meetings or clubrooms
"maintained for it. In fact I had
"forgotten about it. It was about
"1954 when I was approached and told
"that a person was interested in
"the Arlington charter, so I was
"able to file the returns for the
"past eight years which cost me $8.
"I than turned the charter over to
"this man and received $1,000 for
"my good-will'".

Q. Does it go on to say "This is a signed statement"?

A. Yes, it says, "This is a signed statement".

Q. Now, over on the next page at the top of the page, reading from the paragraph starting "Mr. Louis Spizzirri".

A. "Mr. Louis Spizzirri,
"formerly 331 Cedarvale Avenue,
"now residing at 619 Lansdowne
"Avenue, appears as the vice-
"president in the 1957 through
"to 1959. When interviewed by
"Detective Banks on January 25th,
"1962 he stated that he was the

"when this was granted I had no
"[illegible] [illegible]
"[illegible] [illegible]
"were no meetings or classrooms
"maintained for it. In fact I had
"[illegible] room it. It was about
"1924 when I was approached and told
"that a person was interested in
"the Arlington character, so I was
"able to "life the veterans for the
"past eight years when could no go.
"I then turned the character over to
"[illegible] [illegible] [illegible]
"my good-will".

Q. Does it go on to say this is a signed statement?

A. Yes, it says, "This is a signed statement".

Q. Now, over on the next page in the top of the page, reading from the paragraph starting "Mr. Louis Spinnerel".

A. Mr. Spinnerel.

"[illegible] [illegible] Avenue
"now residing on Old Lancaster
"Avenue, appears on the voter-
"president in the 1927 through
"to 1929. When interviewed by
"receive came on January 24th,
"1952 he stated that he was the

"vice-president when Tony Cutrara
"had the charter, but he could not
"recall the exact date that he quit
"except that it was when one Simone
"took over the charter. Roy Simone,
"now residing at 124 Hallam Street,
"has been found on the premises
"when visits have been made by the
"police."

In view of the foregoing facts he respectfully recommends that representations be made for the cancellation of the charter.

Q. And that is back in January?

A. Is dated January.

THE COMMISSIONER: 26th.

MR. ESTEY: Q. 26th?

A. 26th, 1962.

Q. And your cancellation date?

A. Well, it has not been ---

THE COMMISSIONER: February 9th, 1962.

A. That was my letter advising of cancellation, my lord. There has been ---

MR. ESTEY: Q. That hasbeen delayed now. Perhaps we should discuss it.

A. Yes.

Q. I just wondered if it had not yet been cancelled?

A. It has not yet been cancelled because there has been quite a bit happening

since that time in the way of ---

THE COMMISSIONER: In the way of what?

A. Well ---

MR. ESTEY: Q. I think you can explain that if you would turn to your memorandum of 2nd March, 1962. Perhaps I can help you. Some charges were laid against individuals thereafter?

A. That is right.

Q. And you were convening a hearing under your Corporations Act procedure?

A. Yes.

Q. Then you received a request from the lawyers acting for the club or the individuals who were charged, and they asked you not to go on until they had disposed of the criminal charges?

A. Not to go on until the criminal charges had been disposed of.

MR. WILSON: Who were the lawyers?

MR. ESTEY: Q. Peter Slaght?

A. Peter Slaght.

Q. I think there is more than one. We will come to that in a moment. If you turn to your memorandum of 30th May, 1962 to your Minister, you deal with this question of the charges?

A. From myself to Mr. Yaremko, May 30th, 1962:

THE COMMISSIONER: In the way of what?

A. Well ---

MR. MATTE: Q. I think you can conclude that if you would have an open conversation, Mr. Gross, THE. Whenever I am with you. Some charges were laid against individuals ---

A. What is right.

Q. Did you have something a bearing upon the Commission's investigation?

A. Yes.

Q. When you received a request from the Inspector Bertrand Yes and Pat to the individuals who were charged, and they asked you not to go on until they had disposed of the criminal charges.

A. Not to go on until the criminal charges had been disposed of.

MR. WILSON: Who made the request?

MR. MATTE: Q. Peter Bleight?

A. Peter Bleight.

Q. I think there is more than one. We will come to that in a moment. If you had, at this Commission or just Mr. Lamb to your Minister, you dealt with this question of the charges?

A. [illegible]

[illegible]:

" With further reference to
"the above club, I am in receipt
"of a letter from Deputy Chief
"Ellitt, Metro Toronto Police,
"advising that Sam Mulle and Ronald
"Martin were convicted on May 22nd,
"1962, of keeping a common gaming
"house. Certified copies of the
"convictions are attached. The
"offences took place at 1628 Queen
"Street East, being the premises
"of the club. You will note that
"in the Deputy Chief Elliott's
"letter it is indicated that Magistrate
"Addison stated that he did not
"believe this was a bona fide social
"chartered club.
" I ask for a direction with
"respett to the cancellation of
"thecharter."

Then there is a further memorandum, May 31st:

" Mr. Yaremko spoke to me
"today in reference to my memorandum
"of May 30th concerning the above
"club. He asked me to hold a
"hearing in the matter, and in my
"letter to the club to indicate
"that in addition to the grounds
"specified in my previous letter

"of cancellation, we would also
"consider the conviction in question
"as grounds for cancellation."

Q. Now, Mr. Cudney, this set of facts repeats in other clubs, and we will just use this one as an example. Here you are
C/4 with a long gap in the club's history where they do not file returns; then you get a police report where they interview the owner and he said, "I forgot about it. It became dormant and I didn't need it"; then you send out a notice saying you are going to cancel for forfeiture, and then the police charge someone with a gambling offence on the premises. Now, my simple question is, in this set of circumstances why do you hold up your cancellation procedure because there are criminal charges against individuals?

A. Well, the basis for our cancelling the charter is because an offence has taken place upon the club premises, that the club has been a party - as I said, an association (I don't know whether that is a good word or not); has been charged with the wrongful act, and we wait until there is - if there is a charge we wait until the charge is disposed of.

Q. Yes, on your letter of 9th of February. You see, the club which started

"consider the conviction in question

"as pertaining to cancellation."

Q. Now, Mr. Cudney, this set of

faces reports in other clubs, and we will just

see [illegible] as we go along. Have you ever

with a long gap in the club's history where

they do not file returns; then you get a

[illegible] and he said, "I forgot about it. It became

dormant and I didn't need it"; then you send

out a notice saying you are going to cancel

for forfeiture, and then the police charge

[illegible]. Now, my simple question is, in this set of

circumstances why do you hold up your

cancellation proceedure because there are

criminal charges against individuals?

A. Well, the point for the

cancelling the charter is because an offence

has taken place upon the club premises, that

the club has been a party - as I said, an

association (I don't know whether that is a

good word or not); has been charged with the

wrongful act, and we wait until there is -

if there is a change we wait until the charge

is disposed of.

Q. Yes, on your letter of [illegible]

February. You see, the club which started

the ball rolling, you then said this is forfeiture under Section 27 of the old Act.

A. Yes.

Q. Now, a forfeiture under the old Act could not conceivably be affected by criminal prosecution of individuals, be they officers or not, could it?

A. No, I mean, there would be no suggestion of the criminal until the charge was laid.

Q. Yes, but you did defer your hearing, and this is the reason why that charter was not cancelled at that time, is it not, with the intervening conviction plus the appeal and the requests for delay?

A. Yes.

Q. I am just asking you why the Department does not proceed with the forfeiture under the old Section 27.

MR. WILSON: Also Mr. Gould.

MR. ESTEY: I think if the witness looks up his file, Mr. Slaght ---

MR. WILSON: Also Mr. Gould.

MR. ESTEY: Q. My question is, as a matter of policy, why does the Department do that?

A. In this particular case, just to review it a moment ---

THE COMMISSIONER: Individuals were

the mail envelope you have just read was a forfeiture under Section 27 of the old Act.

A. Yes.

Q. Now, a forfeiture under the old Act could not conceivably be referred to [illegible] [illegible], [illegible] it?

A. No, I think, [illegible] suggestion of the criminal until the charge was made.

Q. Yes, but you did defer your inquiry, [illegible] was not cancelled at that time, is it not, [illegible] appeal and the reprieve for delay?

A. Yes.

Q. I am just asking you why the Department does not proceed with the forfeiture under the old section 27.

Mr. [illegible]: Also Mr. [illegible].

Mr. MERRITT: I think if the witness looks up his file, Mr. Blagdt ---

Mr. [illegible]: Also Mr. [illegible].

Mr. MERRITT: Q. My question is, as a matter of policy, why does the Department do that?

A. In this particular case, just to revive it a moment ---

THE COMMISSIONER: Individuals were

charged, were they?

MR. ESTEY: Yes, individuals.

THE COMMISSIONER: Not the company.

MR. ESTEY: I was going to ask that question next.

THE WITNESS: If I might just take a moment to look at this again, just to get it in perspective, I wrote to the club on February 9th a letter of cancellation, and then a hearing was requested and I set the hearing for March 7th, 1962. And then ---

MR. ESTEY: Q. Then the charges came along?

A. Then the charges.

Q. I don't see the name, as a matter of fact, but the man who asked for the adjournment is Mr. Peter Slaght, am I not right?

A. Just a moment.

Q. I don't know that anything turns on it,but that is the man who did. Now, we have gone through all the chronology of it. I think perhaps your answer is you don't know why you do that. If there nothing better than that, let us get on with the next question.

A. The only reason would be, this is just - why we hadn't proceeded on the grounds of the cancellation of the forfeiture, one reason might possibly have been that the people were tied in - there may have been

engaged, were they?

Mr. TERRY: Yes, [illegible].

Mr. CHAIRMAN: [illegible] company.

Mr. [illegible]: I was going to say that [illegible].

THE CHAIRMAN: If I might just take a moment to look at this again, just to get it in perspective, I wrote to the club on [illegible], and then a meeting was requested and I got the meeting for March 7th, 1958. And then ---

Q. [illegible]: Was [illegible] [illegible]?

A. [illegible].

Q. I don't see the name, as a matter of fact, but the man who raised for the [illegible] is Mr. Peter [illegible], am I not right?

A. Just a moment.

Q. I don't know that anything turns on it, but that is the man who did. Now, we have gone through all the chronology of it. I think perhaps your answer is you don't know why you do that. If there nothing never than that, let us get on with the next question.

A. The only reason would be, that is just - why we didn't proceeded on the grounds of the cancellation of the forfeitures, [illegible] [illegible] [illegible] the people were tied in - there may have been

something in the club books that would be helpful until the case was disposed of.

However, I may say this case has gone along a bit further, because following the adjournment there was a conviction and then the conviction was appealed.

Q. Yes?

A. And the proceedings were held up till the appeal was disposed of. Then the Minister asked me - I wrote to Mr. Common - no, I advised Chief Mackey that it was being held up until the appeal was disposed of. There were three of these clubs had been proceeding the same way. There is the Arlington, the Parthenon and the Atlas.

Q. That is right, all about the same?

A. All about the same time., and they are much all in the same category from the standpoint of this procedure.

Q. Parallel proceedings?

A. Parallel proceedings.

Q. I will deal with this one. You don't really ---

MR. WILSON: Let the witness answer. He has got something to say.

THE WITNESS: Then Chief Mackey , as I see it, made further representations.

THE COMMISSIONER: We are getting away

something in the club house that would be [illegible] [illegible] [illegible] [illegible].

However, I may say that once has come along a [illegible] [illegible] [illegible] and adjournment there was a convention and then [illegible] [illegible] [illegible].

Q. Yes?

A. And the proceedings were held up till the appeal was disposed of. Then the Minister asked me - I wrote to Mr. Cameron - [illegible] [illegible] [illegible] [illegible] hold up until the appeal was disposed of. There were three of these clubs had been proceeding the same way. There is the [illegible] club, the Parthenon and the Atlas.

Q. Then is right, all above the [illegible]

A. All about the same time, and they are much all in the same category from the standpoint of this proceedure.

Q. Parallel proceedings?

A. [illegible].

Q. I will read back one one. You don't really ---

Mr. [illegible]: Let the witness answer. He has got something to say.

[illegible]

I see it, more further representations.

[illegible]

from the point.

A. No. Then I wrote at the Minister's suggestion ---

Q. I suggest we are getting away from the point, certainly the point that Mr. Estey has in mind.

A. I would say this ---

Q. Just answer me a moment. Let me say what I understand him to have in mind. On February 9th you wrote to the company that you proposed to cancel the charter for forfeiture of the powers by reason of non-user?

A. Yes, my lord.

Q. Mr. Estey wants to know why these proceedings by you were held up, and you say: "Well, there were certain persons convicted and there was an appeal pending"; and whether certain persons were convicted or not had nothing to do with the fact, as you allege, that the powers had been forfeited.

A. Yes,one of the ---

Q. He is curious to know why you did not proceed.

A. Well, one of the grounds -- You see, another ground was added for cancellation, was the conviction.

Q. I know. Originally you said to the company, "Now, we are going to cancel

from the Union.

A. No. When I wrote it the

Salvation's propaganda ---

Q. I suppose, in your opinion, with

Presidential policy, necessarily the policy that he

thought was right.

A. I would say this ---

Q. Just answer me a moment. Tell me

why that I understand him to have in mind.

On Monday you wrote to the secretary that

you proposed to cancel the contract for

transportation of the prisoner by private con-

veyance?

A. Yes, sir Sir.

Q. Mr. Tetley wants to know why there

[illegible] to you that [illegible] had [illegible]

"Well, [illegible] [illegible] [illegible]

and there was an appeal pending"; and that some

certain persons were convicted or not had

nothing to do with the fact, as you allege,

that the powers had been forfeited.

A. Yes, one of the ---

Q. He is curious to know why you

did not [illegible].

A. Well, one of the grounds ---

You see, another ground was added for

[illegible] [illegible] [illegible] [illegible].

Q. I [illegible] [illegible] [illegible] [illegible]

to the contract. Now, we are going to cancel

your charter for forfeiture of your powers by reason of non-user". Now, anything that has happened since then has not had anything to do with the forfeiture of their powers. Mr. Estey is curious to know why you did not proceed and ignore what happened afterwards.

A. Well, there are two reasons, my lord. One is, as I said a moment ago, there may have been, these individuals who are charged, there may have been something in the - if the charter is cancelled the books will be destroyed and there may be something that may have been of assistance in the proceedings.

Q. In what proceedings?

A. In the criminal proceedings.

Q. But the company was notcharged?

A. No, but in the individuals, there may possibly have been something. It is not too likely but there could have been. Also what we could have done is gone ahead, just to cancel alone onthe forfeiture, or we added another ground, the conviction, and waiting until the conviction, the appeal was disposed of, we could have done both. However, I would say this, my lord, that I wrote to the club on September 25th and asked them, following the advice of the Attorney-General's Department that followed at

your character for forbearance or your powers by reason of non-user". Now, anything such has happened since then you did not exercise to do with the forbearance of their power.

Mr. Macey is anxious to know why you did not prosecute the Liquor and Licence Authorities.

A. Well, there are two reasons, my lord. One is, as I said a moment ago, there was left them, some individuals had been charged, there may have been something in the - if the owner is convicted the books will be destroyed and there may be something that may have been of assistance in the prosecution.

Q. In what proceedings?

A. In the criminal proceedings.

Q. But the secretary was notwithstanding.

A. No, but in the individual, there may possibly have been something. It is not too likely but there could have been. Also what we could have done is gone stand, just to cancel alone owing forfeiture, or we had further proof, but [illegible], the making until the conviction, the appeal was disposed of, so could have done both. However, I would say this, my lord, when I wrote to the club on September 17th and asked them, following the advice of the Attorney-General's Department that followed at

Mr. Yaremko's suggestion, that we were within our rights to ask the club to close, to cease its operations until the appeal was disposed of.

I had a call from Mr. Silk. I had written to Mr. Common. Mr. Silk called me (this was in the summer time) and said, "You are within your rights to ask the club to close until the appeal is disposed of, not to carry on its operations".

I wrote to my Minister and he asked me to write the club, so I wrote the club on September 25th - no, I am sorry, July 25th - that if the club continues to operate before the appeal is disposed of, we will continue the cancellation of the charter, and I sent a copy of that letter to Chief Mackey. In other words, the club was not ---

Q. That was a dangerous letter, I suggest.

A. In other words, the club was not to operate.

Q. You are saying: "You would have the right to operate were it not for the fact that this appeal is pending"?

A. Yes.

Q. You are saying that in one breath and in a second breath are saying "You had no right to operate at all because you had

[illegible]

[illegible]

I [illegible] my admirer and he asked me to [illegible] the club, so I wrote the club on [illegible] - [illegible], I am sorry, Judge [illegible] - [illegible] the proposed to disposed of, we will continue the consideration of the counter, as I have a copy of that letter by Grant Mooney. In other words, the club was not ---

Q. That was a dangerous letter, I [illegible].

A. [illegible] not to operate.

Q. You are saying: "You would have the right to operate work if not for the fact that was asked to produce?"

A. Yes.

Q. You are saying, Lee's in the [illegible] and in a second [illegible] are saying, "You had no right to operate at all because you [illegible]

forfeited all your powers". Well, is this leading us anywhere?

MR. ESTEY: I think the point has been made. I was going to ask - surely the witness would have to agree that as a department they are not interested at all in whether or not these men are convicted.

Q. You are then going to resume your hearing on the forfeiture, aren't you?

A. That is right.

Q. So we are in the position of that old legal saw, that you give the man a fair trial and then hang him, because you are going to cancel this one for forfeiture.

A. That will be a ground. As a matter of fact, there is a hearing pending right now, because, just to complete the story, my lord, the club did not cease to operate after July 25th.

THE COMMISSIONER: Well, I understand Mr. Estey's point anyway. Let us have ten minutes.

---Short recess.

D/1/PAL

---On resuming after recess.

MR. ESTEY: Q. Now, Mr. Cudney, the Greek-Canadian.

A. Mr. Estey, there is one thing, before leaving the last point.

Mr. Estey mentioned in cancelling the charter of the Arlington Club on the forfeiture powers. There is another possible reason why we did not proceed, and that is if we had cancelled the charter before the appeal was disposed of we would be -- it would be, in effect, it was not a bona fide social club. The accused, his possible defence might have been under Section 168 and we would perhaps be prejudicing his case if we had cancelled the charter when the appeal was heard.

THE COMMISSIONER: There may be some merit in that.

MR. ESTEY: Q. Let me ask you this: On the other hand, if the accused, by ~~the~~ reason of the fact the corporation should not be in existence, are you not then giving the accused a defence under 168 that he should not have?

A. I just don't get that point. If the charter -- giving the accused a defence if the charter was cancelled that he would not otherwise have?

[illegible]

—[illegible]

MR. [illegible]: [illegible], Mr. [illegible], [illegible]

A. [illegible]

MR. [illegible]: [illegible]

MR. [illegible]: [illegible]

[illegible] If we had convicted the counties before the appeal was disposed of we would be -- it would be, in effect, it was not a bona fide social club. The counsel, his possible defense [illegible] have been under section 165 and we would perhaps be proceeding this case if we had [illegible] [illegible].

MR. [illegible]: There may be some [illegible] in [illegible].

MR. [illegible]: Q. Let me ask you [illegible] in the other hand, if the [illegible], by the reason of the fact the corporation should not be in existence, are you not then giving the accused a defense under [illegible] he would not have?

A. I just don't see that point.

MR. [illegible] -- [illegible] [illegible] if [illegible] [illegible] would not otherwise have?

Q. Seven years ago -- Put ourselves in the position of the clubs we are dealing with. Seven years before that in the Arlington Club history you could have cancelled for forfeiture, and you did eventually; you could have before the gambling charges were laid given notices to them and if the result of that hearing is the cancellation then the accused would have no defence under Section 168.

A. No, he would not.

Q. Then, if the accused were cancelled under The Corporations Act of Ontario, then, you could not --

A. No, if we had cancelled they could not have invoked that defence.

Q. I suppose that verges into argument. I just wanted to get your answer on that point.

Take a look, now, at the Greek-Canadian Social Club incorporated -- Excuse me. This is --

A. It is an old one, incorporated April 22, 1915.

THE COMMISSIONER: Just a minute until we find where it is.

MR. ESTEY: Greek-Canadian is on page 51.

THE COMMISSIONER: Of the brief?

MR. ESTEY: Of the brief. It is called

Q. Seven years ago -- Put ourselves in the position of the claim we are dealing with. Seven years before that by the Claims Act, Section 24 shall have cancelled for forfeiture, and you did eventually, you conceive before the granting energies were laid given notices to them and if the result of that hearing is the cancellation then the accused would have no defence under Section 24.

A. No, he would not.

Q. Then, if the accused had complied with the Prospectors Act of Ontario, then, you could not --

A. No, if he had cancelled they could not have invoked that defence.

Q. I suppose that verges into argument. I just wanted to get your answer on that point.

Then a last, sir, of the prospectors-claims social clubs incorporated -- Excuse me. What is --

A. It is an old one, incorporated about 8, 1911.

THE COMMISSIONER: Just a minute until we find where it is.

MR. MOTAY: Green-Canadian is on page 34.

THE COMMISSIONER: Of the brief?

MR. MOTAY: Of the brief. It is section

the Greek-Canadian Club there. The file is entitled the Greek-Canadian Social Club. I do not suppose anything turns on it.

Q. It is the same club?

THE COMMISSIONER: And the appendix?

MR. CARTY: Appendix J, 6, 14, 20; and K, 3.

THE COMMISSIONER: All right, thank you. When was it incorporated?

MR. ESTEY: In 1915.

A. 1915, my lord.

Q. My notes say this, strangely enough, has an anti-gaming clause, away back in 1915.

A. Yes. Many -- Around about that time, not the same wording, but an anti-gaming clause was put in. Anti-gambling and betting, in a number of charters.

Q. And, then, the practice died out and then it was revived?

A. It seems to have died out shortly after 1915. There are a lot around 1910 have it.

Q. This charter was cancelled in 1959, I think December, 1959, Mr. Cudney?

A. December, 1959.

Q. So that we will know the cause as we go through, what were the grounds for cancellation?

[illegible]

[illegible]

[illegible]

Q. [illegible]

[illegible]

MR. [illegible]: [illegible]

Q. [illegible]

[illegible]

MR. [illegible]: In 1925.

A. 1925, my land.

Q. My [illegible] any [illegible], [illegible]

[illegible] in 1925.

A. Yes. They -- [illegible] about [illegible] time, not the same [illegible], but an anti-[illegible] clause was put in. Anti-[illegible] and [illegible].

Q. And, then, the [illegible] died [illegible]

A. It seems to have died out [illegible] after 1925. There are a lot around 1920 [illegible] 30.

Q. This [illegible] was [illegible] in [illegible]

A. December, 1929.

Q. So that we will know the [illegible] [illegible]

A. It was failure to produce books.

Q. The books. I see the first thing on your file is a letter away back in 1917 advising that the club was going out of business for lack of interest. It did not last a year. Do you see that?

A. Yes. A letter from the solicitors -- This was an Ottawa club, originally. The club did not last a year.

THE COMMISSIONER: Q. What date was that?

A. December, 1917, my lord.

MR. ESTEY: Q. Then, moving through the file to the year 1954 you will see, Mr. Cudney, a series of letters from people who are named as being directors and where they deny that they have been associated with the

D/2 club. For example, on August 17, 1954, you received a letter from Mr. Barrette.

A. August 17?

Q. 1954. A. Yes. There is a letter, August 18, 1954, from Mr. Bergeron.

Q. All right, let us deal with that.

A. He says:

" I have never heard of,
"or attended a meeting, or the
"aforementioned club, and my only
"reason in joining said club was
"to be able to play billiards.

D/2

Q. Is that right, Mr. [illegible]

Q. The books. I see the first entry on your file is a letter early back in 1917 advising that the club was going out of business for lack of interest. It did not last a year. Do you [illegible]?

A. Yes. I think that [illegible] — [illegible] was an [illegible] and [illegible]. The club did not last a year.

Q. [illegible] Q. [illegible] year [illegible]

A. December, 1917, my lord.

Q. [illegible] Q. [illegible] the file to the year 1924 you will see, Mr. Gadney, a series of letters from people who are named as being directors and where they deny that they have been associated with the club. For example, on August 17, 1924, you received a letter from Mr. Barrette.

A. August 17?

Q. 1924. A. Yes. There is a letter, August 18, 1924, from Mr. Bergeron.

Q. All right, let us deal with that.

A. [illegible]

" I have never heard of,
"or attended a meeting, or the
"aforementioned club, and my only
"reason in joining said club was
"to be able to play billiards.

"I have no idea how my name "got on the aforementioned club's "charter.

"I have never given my consent "to become a director, or to anyone, "to use my name, in any way, "whatsoever. How my name got to "be on this club's charter as a "director is beyond me, since it was "done without my knowledge and this "is the very first I hear of it."

Q. That is from Bergeron. Do you see a similar letter from Barnette and a similar letter from Diamend?

A. Yes. I have a letter from Barnette. He never attended any meetings. This is August, 1954. "I therefore could not be elected as a director".

Q. Then, Sam Diamend is shown as a director. Do you see the letter from him?

A. Yes. I have that here, August, 1954.

"I was never elected or never "attended a meeting to my knowledge "and as far as I am concerned I was "never advised or consulted in any "way, financially or other, concerning "the above mentioned club."

Q. The only remaining director was

" I have no idea how my name
"got on the aforementioned club's
"letter.
" I have never given my consent
"to be a director, or be engaged
"in any way in it, as far as I know,
"whatsoever. How my name got to
"be on this club's letter as a
"director is beyond me, since it was
"done without my knowledge and this
"is the very first I heard of it."

Q. That is from Bergeron. Do you see a similar letter from Romeyte and a similar letter from Hunt?

A. Yes. I have a letter from Romeyte. He never attended any meeting. This is August, 1924. "I therefore could not be elected as a director".

Q. Then, Sam Hammond is shown as a director. Do you see the letter from him?

A. Yes. I have that here, August, 1924.

" I was never elected or never
"attended a meeting to my knowledge
"and as far as I am concerned I was
"never advised or consulted in any
"way, financially or otherwise, regarding
"the company's affairs."

Q. The only remaining director was

A. Potrin. You sent a letter on August 17, 1954, to the address given in the annual return and it was returned no such address. Do you see that?

A. Yes, I have that.

Q. In 1954, at that time, there were returns with your Department setting out the board of directors, all of whom said they were not directors or the letters were returned?

A. That is correct.

Q. And that falls in the category of what I referred to yesterday of the amber light; this is your first warning?

A. Yes.

Q. This charter is about to change hands.

THE COMMISSIONER: What is the history of the filing of returns?

MR. ESTEY: The history from the outset, very briefly, my lord, is that for the first seven years after the company was incorporated there were no returns filed.

THE COMMISSIONER: Yes.

Then, what happened?

MR. ESTEY: Then, I believe, the returns came in regularly down to --

THE COMMISSIONER: Did the returns for the seven years come all in a bundle?

MR. ESTEY: Yes, they came all in one

A. Fourth. You sent a letter on August 17, 1964, to the [illegible] Life in the [illegible] [illegible] and it was returned to you [illegible].

Do you see that?

A. Yes, I have done.

Q. In 1964, at that time, there were returns with your department sending out the board of directors, all of whom said they were not directors or the letters were returned?

A. That is correct.

Q. Is that what [illegible] the [illegible] of what I referred to yesterday of the [illegible] [illegible] [illegible] [illegible]?

A. Yes.

Q. This character is sent to change [illegible].

THE COMMISSIONER: What is the history of the filing of [illegible]?

MR. [illegible]: Well, the [illegible] very briefly, my lord, is that for the first seven years after the company was incorporated there were no returns filed.

THE COMMISSIONER: Yes.

Then, [illegible] [illegible]?

MR. [illegible]: Then, I believe, the returns came in regularly down to --

THE COMMISSIONER: Did the returns for the seven years come all in a bundle?

MR. [illegible]: Yes, they came all in one

bundle, according to my notes.

Q. Is that correct, Mr. Cudney?

A. Yes, March 31, 1922.

Q. In the letter immediately following that a solicitor, Mr. Proudfoot, to your predecessor, advises he wanted to re-organize the club and put it on a more business-like basis. From then on the returns came in more regularly. I see no record of any pile-up of returns again.

A. They seemed to be quite regular here, my lord.

Q. The next gap occurs in 1957. February the 25th, 1957, the returns for 1954, 1955 and 1956 were filed.

A. 1954 to 1956 inclusive. That was our letter of '57.

Q. Now, those returns, again, set out the names of Barrette, Bergeron, Potrin, Diamond, Choquette and Holmes. Isn't that correct?

A. Yes. They set out -- The 1956 is Choquette, Potrin, Holmes, Bergeron, Herken.

Q. The majority, if not all, of those in 1954 indicated they were not directors. Is that not correct?

A. Barrette had mentioned; Potrin's letter had been returned unclaimed; and Bergeron.

Family, according to [illegible].

Q. [illegible] Mr. Tandy

A. [illegible] 24, 1[illegible].

Q. In the letter immediately following that [illegible] Mr. Brantley, in your predecessor, advices he wanted to re-organize the club and put it on a more business-like basis. Then then on the returns come in more regularly. I see no record of any pick-up of returns again.

A. They seemed to be quite regular here, my land.

Q. The next gap occurs in 1927. Sometime the [illegible] 1927, the revenue for 1924, 1925 and 1926 were filed.

A. Late to 1925 inclusive. Then we are looking at '27.

Q. [illegible] and one the name of Dorothie, Hodgeson, Pottell, Mason, Gruenwoe and Holmes. Isn't that correct?

A. Yes. They met out -- The [illegible] Brown, [illegible] Brown.

Q. The defendant, Mr not all, of those in 1924 indicated they were not directors. Is that not correct?

A. [illegible]

Q. We went through them all?

A. Yes.

Q. Then, Samuel Diamend, again, in 1957, with some emphasis this time, said, "I have nothing to do with the club in question"; isn't that correct?

A. What is the date of that letter?

(Page 13055 follows)

Q. We went through that only.

A. Yes.

Q. Then, Samuel Dimond, again, in 1887, take that exactly take care, you "I have nothing to do with the club in question"; is that correct?

A. What is the date of that letter.

(Note [illegible])

E/RC/1

MR. ESTEY: Q. That letter is April 17th, 1957; his earlier letter was August 15th, 1954?

A. Yes, this is a letter from S. Diamend, April 15th, 1957.

"If my name still appears in "their records it must be by error, "because they have been well advised "in August, 1954, that I have "nothing to do with the club in "question."

Q. What I am getting at here, Mr. Cudney, is this returns the last letter on March 10th, 1958, which is four years after those letters came to the Department; and we find somebody certifying ---

A. March 10th, 1958?

Q. Yes, March 10th, 1958.

A. Well, the last return, Mr. Estey, I have, is March 7th, for this club.

Q. Well, there is a date stamp on the return?

A. I see, yes, March 10th, 1958, yes, that is right.

Q. Now, the return -- let's take the one that is date stamped with the date for the 31st March, 1955, or 1956, they are identical. Do you see that?

A. 31st March, 1955. Yes, that is the same date stamp.

Mr. Gurney: Q. Have you seen the Quart Club, Lady? -- [illegible] Yes, Mr. Gurney.

A. Yes, this is a letter from

S. Diamond, April 15th, 1951.

"If my name could appear in

"[illegible] I would be [illegible]

"[illegible] Club.

"In August, 1951, when I have

"nothing to do with the club in

"[illegible]."

Q. What I am getting at here, Mr. Gurney, is this: returns the last letter on March 10th, 1951, which is four years after these letters came to the Department; and we find somebody certifying ---

A. [illegible]

Q. [illegible]

A. Well, the last return, Mr. Gurney, I have, is March 7th, for this club.

Q. Well, there is a date stamp on the envelope.

A. I see, yes, March 10th, 1951, yes, that is right.

Q. Now, the return -- let's take the one that is dated March 7th, 1951, the 31st March, 1952, or 1953, they are identical. Do you see that?

A. 31st March, 1953. Yes, that is the last one [illegible].

Q. Now then, Mr. Earl Harrigan, on February 26th, 1958, certified that our old friends, Bergeron, Barrett, Choquette, and so on, were elected directors of the club. Now, what do you say about that in the light of the correspondence we have been reading on this back-dated return?

A. In 1957?

Q. Yes, in 1957, the date-stamp is March 10th, 1958?

A. '58, yes -- no, there appears to have been no enquiries made, Mr. Estey.

Q. That affidavit was at least prima facie wrong, I suggest?

A. Yes, the affidavit of Roger Mongeon.

Q. Well, now, this has been an Ottawa club up to now, I think you said at the outset; your file indicates Ottawa addresses?

A. Yes.

Q. And, there is an Ottawa lawyer corresponding there. And, then, I notice on January 16th, 1959, there is a letter from you to the club addressed to 1289 Bloor Street West, Toronto -- January 16th, 1959?

A. Yes, I have that, Mr. Estey.

Q. Can you tell us first of all how you came to address that to a Toronto address,

Q. [illegible] Q. [illegible]

[illegible] [illegible]

All [illegible] [illegible]

and so on, were answer [illegible] of the

[illegible]. [illegible] [illegible]

in the light of the correspondence we have

been reading on this case-saved recently

Q. [illegible]

A. Yes, in [illegible], the [illegible]

[illegible]

Q. [illegible] yes -- no, there appears

to have been no [illegible] here, Mr. [illegible].

Q. That affidavit was at least

[illegible] [illegible]

A. Yes, the affidavit of [illegible]

[illegible].

Q. Well, now, this has been an

Ottawa case up to now, I think you said at

the outset; your life [illegible] Ottawa

addresses?

A. Yes.

Q. [illegible] [illegible]

[illegible]. And then, I [illegible]

on [illegible] [illegible], there is a letter

from you to the city addressed to [illegible]

[illegible], [illegible] -- [illegible]

A. Yes, I have that, Mr. [illegible].

Q. Can you tell us [illegible] or [illegible]

you came to address that to a Toronto address,

the annual return for the last period for that shows an Ottawa address. There doesn't seem to be anything in the file to show how that came up.

A. I can't recall that, Mr. Estey. I think the only way that I would know would likely be through a police call or a police interview at the office.

Q. Yes. The next police report on your file is the next April, 1959, but you sayyou think it would likely be given to you by telephone?

A. Yes, that is likely what would happen, the police will be in the office and they will mention a club and I will look up the address, and the name might not come into the actual file for a little while.

Q. Now, the next file is January, 1959, where your Department addressed a letter to one of the people named as being a director, Mr. Couzeneau, he is shown as a director from as far back as 1957?

A. Yes, that was a form letter for arrears of returns.

Q. Yes, Mr. Couzeneau sends it back with a rather cryptic letter:

"Wrong name; wrong address; wrong

"Province. It is all Greek to me."

the annual reports for the last period for that house on Ottawa avenue. There doesn't seem to be anything in the file to know how that came up.

A. I don't remember, sir.

I think the only way that I would know would likely be through a police call or a police interview at the office.

Q. Well, the last entry [illegible] on your file is the next April, 1970, but you say you think it would likely be given to you by telephone?

A. Yes, that is likely what would happen, the police would be in the office and they would mention a club and I would look up the address, and the name might not come into the edited file for a little while.

Q. Now, the next file is January, 1971, [illegible] referred to one of the people named as being a director, or, [illegible], to be shown as a director from [illegible] been as high?

A. Yes, that was a long lapse for [illegible] of [illegible].

Q. [illegible] Gamecock [illegible] [illegible]:

"Provisos. It is all [illegible] to me."

He is one of the persons who was a director, was he not?

A. Yes.

Q. And, things then began to happen rather quickly in Toronto. We find the people at this end had moved rather quickly. And, then, we come to March 5th, 1959, a letter from you to Louis Herman. That is the first mention of him on your file up to that time, although we have had a series of Ottawa lawyers. Is there anything to indicate on the file who was acting for the Ottawa club?

A. No, there is not.

Q. Then we come to ---

A. I understand that he is solicitor, and they have not produced the books, and I wished the books to be produced.

Q. Yes, and just to round that out, Mr. Cudney, you followed through on that, and you told them on the 2nd of April that the club, not having produced the books, you were going to cancel the charter -- the 2nd of April, 1959?

A. Yes, that is right, April 2nd, 1959.

Q. And, then, you didn't -- just to get the whole story, you didn't follow through on that for the very good reason

that somebody sent in some photostats and one thing and another before the actual order went out, and then on April 2nd, you received a police report, and I wonder if you would place that before the Commissioner?

A. Yes, I have that.

Q. It is a report following Chief Mackey's report, and re cancellation?

A. Yes.

Q. This report is shorter than ---

A. Yes, may I . . .

THE COMMISSIONER: Q. You may read it.

A. . . . read it? Yes: April 3rd, 1959, Inspector Walker to Chief Mackey:

"Re: Union Jack (Toronto) Social Club
"1601 Dundas Street, West, and
"Greek Canadian Social Club,
"Address Unknown.

"On Saturday, March 7th, 1959,
"Officers from the Morality Division
"conducted an investigation at the
"premises known as the Union Jack
"(Toronto) Social Club, 1601 Dundas
"Street, West. As a result of this
"investigation, William DUDDY, 120B
"Sheridan Avenue (Club Steward) and
"Jack Jarvis, 70 Lloydmanor Road,
"(Secretary-Treasurer) were charged
"jointly with Keeping a Common Gaming

[illegible]

[illegible] somebody went in more prosecutors and one [illegible] [illegible] [illegible]

"House. This case has not as yet been
"disposed of by the Courts. At that
"time, William Duddy informed the
"Officers that one James Stavro was
"President of the club and produced
"club membership cards signed 'J. Stavro
"for President'. When questinned
"about the telephone numbers of the
"club officers, he stated 'they
"should be here' but was unable to
"locate them. James Stavro, 24
"Duncairn Drive, part owner of the
"Westwood Restaurant, 3741 Bloor
"Street, West, was contacted by
"telephone from the club and advised
"of the investigation and requested
"to come to the premises. At this
"time, Mr. Stavro stated 'I received
"a telephone call some time ago from
"an unknown person who told me that
"I had been elected President of
"something. I thought it was a joke,
"hung up the telephone and did not
"think any more about it'. Upon
"arrival at the club, Mr. Stavro was
"shown the membership cards bearing
"the signature 'J. Stavro' after
"which he stated 'that is not my sig-
"nature. I know nothing about this

"place and have never been here before
"and am not in any way connected
"with it'.

"At the time of this investigation,
"a search of the premises was conducted
"and amongst other items seized were
"two bills; one a Hydro-Electric bill
"dated February 11th, 1959 and the
"other a Bell Telephone bill for
"telephone LEnnox 7-3153 dated
"February 13th, 1959. Both of these
"bills were made out to the Greek
"Canadian Social Club, 1601 Dundas
"Street, West, and were found under
"the counter in the clubroom along
"with the records of the Union Jack
"(Toronto) Social Club. Telephone
"LEnnox 7-3153 is on the premises
"and the records of the Bell
"Telephone Company reveal that
"application for telephone service
"was made on January 16, 1959, by
"the Greek Canadian Social Club -
"James Stavro, President, and Paul
"Rotterman, a club member. Application
"for Hydro Electric service was
"also made by Rotterman in the month
"of January, 1959.

"Jack Jarvis, when asked to

"explain the presence of these bills
"(of) the Union Jack . . . " ---
MR. ESTEY: Q. " . . . on the Union Jack . . ."
E/2 A. I'm sorry:
" . . . on the Union Jack (Toronto)
"Social Club premises, informed the
"Officers that, although he was
"Secretary-Treasurer of the club,
"he did not handle any of the
"correspondence or financial affairs.
"He further stated that he had agreed
"to a proposal made by Duddy and
"Rotterman to act in this capacity
"on the understanding that the position
"would be honorary and had been told
"by them to 'consider yourself voted in'.
"William Duddy stated that the
"Union Jack (Toronto) Social Club
"had been located at 1601 Dundas
"Street, West, for approximately six
"weeks and that he had no knowledge
"of any other club at this address." ---
Q. Just a minute ---
A. "As a result of information
"received that the Greek Canadian
"Social Club was located on the upper
"floor of 1289 Bloor Street, West,
"Officers from this Division made
"investigations at that address.

"One Edward FITZGERALD who lives in the "rear portion of the building stated "that no club is located at this "address and that he had no knowledge "of any club bearing that name. He "further stated that some time ago "he was employed as a Steward by "the Montcalm Social Club at 1289 "Bloor Street, West. Investigations "reveal that the Montcalm Social Club "Charter is cancelled.

"William Duddy, Jack Jartis "and Edward Fitzgerald each referred "the Officers to Mr. Louis Herman, "Solicitor, for further information "and the books pertaining to the "operation of both clubs. Mr. Herman, "when interviewed, stated that they "were not in his possession.

"From investigations, the Greek "Canadian Social Club charter is being "fraudulently controlled by the "operators of the Union Jack (Toronto) "Social Club. No books or records "pertaining to the operation of either "of these clubs has been produced and "no explanation has been made for the "presence of the aforementioned "Telephone and Hydro bills found on

"the premises at 1601 Dundas Street, West.
"The present location of the Greek
"Canadian Social Club is unknown.
"It is obvious that this charter
"is being used to protect illegal
"gambling activities. I therefore
"recommend that representation be made
"to the Provincial Secretary's
"Department, that the Greek Canadian
"Social Club charter be cancelled.
"A further report will be
"submitted when the charges pending
"against the Union Jack (Toronto)
"Social Club are disposed of by the
"Courts."

And it is signed "E.R. Walker".

Q. You then sent that report to Dr. Phillips, the then Provincial Secretary?

A. Yes.

Q. By memorandum dated 3rd April, 1959?

A. That is right.

Q. And just down about eight lines -- I think you go through the history which we know, and then you say, "As the club had shown up . . . " ---

A. "As the club had shown up
"suddenly in Toronto it appeared to
"me that perhaps the charter had been

"'sold' and to this end I wrote to the
"club in Toronto asking that they
"attend at my office on a certain
"date to produce all books including
"the minute book and the members
"registry. On the day set for the
"hearing the club did not appear, but
"the solicitor for the club, Mr.
"Louis Herman, Q.C. of Toronto,
"advised me subsequently that he
"had intended to appear for the club,
"but had forgotten about the date.
"I advised Mr. Herman that these
"books should be produced forthwith.
"I have telephoned Mr. Herman on a
"number of occasions, but the books
"still had not been produced. I
"wrote him the last time on March
"20th advising that if the books
"were not produced within one week
"the letters patent would be
"cancelled for cause. The books
"still have not been produced. In
"the meantime the Toronto Police
"have been in constant communication
"with me and asking what is being
"done about the club and saying
"that they strongly suspect that the
"club in Toronto is being operated

"illegally as a common gaming house.
"Following my telephone conversation
"with you of this week I wrote the
"club advising that the letters
"patent were being cancelled. I am
"attaching hereto an order cancelling
"the letters patent. In view of the
"police reports I strongly recommend
"that the Charter be cancelled."

Q. What did the Minister do with your memo, or instruct you to do?

A. Well, at the end there I had had -- this was confirming a conversation I had had, and apparently he instructed me to prepare the order. The order was prepared -- let's see when that was. Oh, that memo is on April 3rd. And, then, the report from the police was received April 7th. It is dated April 3rd, and the police report was referred by me to Mr. Margolian, the departmental solicitor, and he said, "It appears . . . " -- his reply is:

"It appears from the report of
"Inspector Walker that the above-
"named clubs charter should be
"cancelled.

"However, since a substantial
"part of the reasons for cancellation
"in view of its connection with the

"Liability is a matter great moment,
"particularly in criminal jurisprudence
"where proof beyond a reasonable doubt
"must accompany the verdict
"present were being considered. I am
"authorized herein to state, representing
"the Jackson present. In view of the
"evidence adduced I strongly recommend
"that the Character be commuted."

Q. What did the Murderer do with your memo, or instruct you to do?

A. Well, at the end there I had had -- this was requiring a rain-check I had but, and apparently he instructed me to process the order. The error was pointed -- let's see when that was. Oh, that memo is on April 3rd. Then, then, the report from the police was received April 7th. It is dated April 3rd, and the police report was referred by me to Mr. Harpolitan, the department solicitor, and he said, "It appears . . ." -- his reply is:

"It appears from the report of
"Inspector Walker that the above-
"named claim cleaner should be
"reinstated.

"However, there a substantial
"part of the reasons for cancellation
"in view of his connection with the

"Union Jack (Toronto) Social Club, it "would appear advisable to withhold "any action on our part until the "prosecution against the Union Jack "is completed."

Q. Did you act on that recommendation from your assistant?

A. Yes, I discussed it with the Minister, and it was decided tohold up the cancellation until the case against the Greek-Canadian was disposed of.

THE COMMISSIONER: Q. The case against whom?

MR. ESTEY: The Union Jack.

THE WITNESS: The Union Jack.

In the meantime, I was pressing Mr. Herman for the books.

Q. Could you explain the connection between the Union Jack and this club?

A. We were going on the report of Mr. Walker. I believe he calls it here, "Occupying the same premises", and my thought was, actually, on that, that if the Charter were cancelled, the Greek-Canadian, the books would disappear, and if there was anything of any assistance to the case of the prosecution of the Union Jack, that is why it was held up.

Just looking at this, the file shows

"Union Jack (Toronto) Social Club, it
"would appear advisable to withdraw
"any action on our part until the
"[illegible] [illegible] [illegible]
is compromised."

Q. Did you act on that recommendation
from your [illegible]?

A. Yes, I discussed it with the
[illegible], and it was decided [illegible] up an
arrangement until the case against the
Greek-Canadian was disposed of.

THE COMMISSIONER: Q. The case against [illegible]
[illegible]

Mr. [illegible]: [illegible] [illegible].

[illegible]: [illegible] [illegible].

In the meantime, I was pressing Mr. Herman
for the [illegible].

Q. Could you explain the connection
between the Union Jack and this club?

A. We were going on the report of
Mr. Wanner. I believe he calls it here,
"occupying the same premises", and my thought
was, actually, on first, when if the Chief
were convicted, the Greek-Canadian, the
police would disappear, and if there was
anything of any resistance to the case or
the prosecution of the Union Jack, then it
may it was head up.

Just [illegible], as [illegible], one like [illegible]

there was a great many letters by me.to Mr. Herman throughout those summer months.

Q. You took no action, and meantime, was the club operating? Evidently, the police were after you about this?

A. So far as I know it was, Mr. Estey. So far as I know, it was.

Q. And, what was the outcome of it?

A. Well, the Union Jack charter was cancelled; at least, they were convicted, I think it was in September, and the charter was cancelled not too long after that.

Q. December 29th I think it was cancelled; isn't that correct?

A. That is the Greek-Canadian, but the Union Jack -- well, then, I had mentioned to my Minister the cancellation of its charter, and I had written a number of ultimatums to Mr. Herman, and then action was taken, and the charter was cancelled in December.

Q. Was this ultimatum, as you call it, was it written on the 2nd of April, 1959, and you never did cancel the clubs, and then they were cancelled in the month of December?

A. That's right. There was a number of ultimatums over the next months.

E/3/RC

Q. Now, then, would you turn to Nottawa.

THE COMMISSIONER: What exhibit is it?

MR. WILSON: Beif 86, "J", 716-20, "K" 7.

MR. ESTEY: Q. This is the old charter, Mr. Cudney?

A. Yes.

Q. Incorporated 1919?

A. October, 1919, at Collingwood, Collingwood and vicinity, Township of Nottawasaga.

Q. I think this club sets the record, does it not,Mr. Cudney, for arrears of returns filed en bloc, January 23, 1959 -- You received returns from 1931 to 1958?

A. Yes, 1931 to 1958, that was in January 23, 1959.

THE COMMISSIONER: Q. The returns for what years?

A. 1931, my lord, to 1958.

MR. ESTEY: Q. For example, I see the 1931 return was sworn to on January 2nd, 1959?

A. Yes, that's right.

Q. When was this charter -- was this charter then cancelled?

A. This was cancelled, yes, Mr. Estey.

Q. And the grounds?

A. Were for forfeiture of corporate powers.

Q. Cancelled, 1960?

Q. Now, then, would you turn to

Nothing.

THE COMMISSIONER: What exhibit is it?

MR. WILSON: Exhibit 85, "U", Vis-20, "X" 7.

MR. MERRY: Q. This is the old charter,

Mr. Hackney

A. Yes.

Q. Incorporated City

A. Gardner, Ind. Mr. Hallsworth.

Gallinwood and vicinity, Township of Hotchkiss.

Q. I think this also sets the record,

does it not, Mr. Gardner, for minutes of meetings

held on Mice, January 23, 1920 -- You

[illegible]

A. Yes, 1921 to 1922, that was in

January 27, 1920.

THE COMMISSIONER: Q. The returns for

some years?

A. 1921, my lord, to 1922.

MR. MERRY: Q. For example, I see the

[illegible]

A. Yes, [illegible]

Q. When was this charter -- was

[illegible]

A. This was cancelled, yes, Mr. Hackney.

Q. And the grounds?

A. Were for forfeiture of corporate

[illegible]

Q. [illegible]

A. Cancelled 1960. This is a club, there was a note about it in a Press article at the end of 1959 and I, shortly after, saw Chief Mackey in January, 1960, and we discussed the situation, and this was one of the clubs that was mentioned, and it appeared I was instructed previously in view of the fact these charters were -- or, before that, I asked the police officer to bring all those that were in arrears to my attention, those in arrears of annual returns, and they were dealt with en bloc, and where the directors changed. And, this was cancelled on the basis of forfeiture of corporate powers. I remember I asked the Chief to send a report on this club, and in the meantime I had asked the Provincial Police to go to Collingwood to make an investigation to find out if the corporate powers had been ---

Q. Did you consider interviewing the members personally for failure?

THE COMMISSIONER: For what?

MR. ESTEY: Q. For failure to file the returns.

A. My lord, I think there was a cancellation ---

Q. I was referring to the day you found filed that bundle of returns.

A. Actually, what happened was we

A. Cancelled 1900. This is a claim, there was a note about it in a Press article at the end of 1899 and I, shortly after, saw Chief Mooney in January, 1900, and he discussed the situation, and that was in his claim that was mentioned, and it appeared I was interrupted previously in view of the fact these charges were -- or, before that, I asked the police officer to bring all those that were in arrears to my attention, those in arrears of annual rentals, and they were dealt with on blue, and where the circumstances changed, and, this was cancelled on the basis of forfeiture of corporate powers. I remember I asked the Chief to send a report on this claim, and in the meantime I had asked the Provincial Police to go to Cobalt-Wood to make an investigation to find out if the corporate powers had been ---

Q. Did you consider interviewing the members personally for failure?

The Commissioner: Q. MAY

Mr. DUNN: Q. Not failure to file the

A. My Lord, I think there was a ---

Q. I am referring to the day you found filed that bundle of returns.

A. Actually, such happened has to

had cancelled the charter for failure to file annual returns, and, to do that, we send out notices to the directors of record by registered letter and by notices inserted in the Ontario Gazette, and the registered letters were sent to the directors October 8th, 1958 and the notice in the Ontario Gazette would be -- I think it is around that time -- in any event, it was listed. There was a proposed cancellation of the Nottawa Club among a whole list of many others.

Q. I asked you the question, did you consider --- All right, go ahead.

A. It was shortly after that that the returns came in.

Q. Some time in January you got the returns?

A. Yes.

Q. And, before you, there were clubs grossly in arrears and without share capital, and now I am asking you if you considered setting up as an example one of these clubs and making a salutory move in prosecuting those clubs for failure to file returns?

A. The practice, Mr. Estey, for arrears in filing annual returns is if the corporation has assets -- and I am speaking of share capital -- we ascertain from the Treasurer if they have assets, and if they have

[illegible]

[illegible] the Indians in Alle-
[illegible] Alle, to be sure, so good was
[illegible] the Government [illegible]
[illegible] Alle and [illegible] Lawrence be-
[illegible] Bonnie, and the [illegible]
were sent to Shoshoreen Indians and, [illegible]
and the notice in the Oneida Gazette would
be -- I think it is around that time -- in
any event, it was Lawrence. There was a
[illegible] [illegible] [illegible]
seen, a whole list of many others.

Q. I asked you the question, did
you consider -- All right, go ahead.

A. [illegible]
the returns came in.

Q. Some time in January you got the
[illegible]

A. Yes.

Q. And, before you, there were claims
already in arrears and without share applied,
and now I am asking you if you considered
setting up as an example one of those claims
and making a salutary move in prosecuting
those claims for failure to file returns.

A. The procedure, Mr. Bailey, for
arrears in filing annual returns is if the
corporation has assets -- and I am speaking
of share capital -- we assessment from the
Treasurer if they have assets, and if they have

we prosecute them for failure to file annual returns. If the corporation has no assets we proceed to cancel for failure to file annual returns.

Q. Now, in due course --

A. This was, by the way, Mr. Estey, this was a file which, to use a departmental term, was a dormant file. This file was transferred many years ago; I believe it was never cancelled, but in those days we used to put it down in the dormant file and we didn't cancel. And, we were just going through the list, and we didn't pick out this one particularly, it was just that it was one that was there as we were going across the board.

Q. In any event, while you might have done other things, eventually you got a police report from Chief Mackey of January 19th, 1960?

A. Yes, that was following our interview.

Q. It would be about a year after the returns were filed. And his report includes the letter of January 6th, from Inspector Walker. Is that report a lengthy one? There is only one part of it of help to us.

THE COMMISSIONER: What is the date of Mackey's letter?

[illegible] Mr. Fallon to file every [illegible] returns. If the corporation [illegible] to permit the [illegible] by file [illegible].

Q. Now, in the course --

A. [illegible] this was a file which, to use a [illegible] term, was a [illegible] file. [illegible] many years ago; I believe it was [illegible], but in those days we used to put it down in the [illegible] file and we [illegible]. [illegible] through the line, and to didn't pick out this one particularly, it was just that it was one [illegible] found.

Q. In any event, while you might have done other things, eventually you got a [illegible] report from Chief Engineer of Sanitary Lyte, Lloyd [illegible].

A. Yes, that was following our [illegible].

Q. It would be about a year after the returns were filed. And did report include the letter of January 6th, from Inspector Walker. Is that report a long-hand one? There is only one page of it or [illegible] so.

THE COMMISSIONER: What is the date of Bailey's letter?

MR. ESTEY: His letter, my lord, is dated the 14th January, 1960.

THE WITNESS: January 14th, 1960.

THE COMMISSIONER: Inspector Walker's report?

MR. ESTEY: Of January 6th, 1960. It is quite a lengthy report; it is about five pages.

THE COMMISSIONER: You might draw Mr. Cudney's attention to the part that you want.

MR. ESTEY: Yes. I have a copy here.

Q. Well, it is the very last paragraph, Mr. Cudney, and it commences, "The reputation . . ." -- and so on. Would you read that paragraph?

E/4

A. "The reputation and the "investigations conducted at this "club clearly indicate that the "Charter of the Nottawa Community "Club is being used to replace "the Union Jack (Toronto) Social "Club which was cancelled.

" In view of the above, it is "our considered opinion that this "is not a bona fide social club, "and strongly recommend that "representations be made to the "Provincial Secretary's Department "for cancellation."

Q. Now, to round out the picture so

MR. MEWS: His letter, my Lord, is dated the 14th January, 1960.

THE CHAIRMAN: Answer, ---, 1960.

THE COMMISSIONER: Inspector Walker's report.

MR. MEWS: of January 5th, 1960. It is only a [illegible] report, it is [illegible].

THE COMMISSIONER: You might draw Mr. Gurney's attention to the part that you read.

MR. MEWS: Yes. I have a copy here.

Q. Well, it is the very last paragraph, Mr. Gurney, and it [illegible]. "The repudiation . . ." -- and so on. Would you read that paragraph?

A. "The repudiation and the
"[illegible] [illegible] of this
"[illegible] [illegible] that the
"Chairman of the Mottsue Community
"Club is being used to replace
"the Alan Ross [illegible] Social
"Club which was cancelled.
" In view of the above, it is
"our considered opinion that this
"is not a bona fide social club,
"and strongly recommend that
"representations be made to the
"[illegible] Secretary's Department
"for cancellation."

Q. Now, to round out the picture so

that we can see where we are going here, this is the sort of thing, the moving of the Nottawa Community Club down to Toronto to fill a hole after the cancellation of another club, I suppose, is more difficult now with regard to 291 of the Act?

A. Yes, this is one of the clubs that is responsible for that going into the Act, because I mentioned to Chief Mackey about the Nottawa being under the principles of this amendment, and this is one of the clubs where that amendment came about.

Q. Now, Mr. Cudney, I would like to deal with the Preston Amateur Athletic and Social Club of Ottawa.

THE COMMISSIONER: The Preston what?

MR. ESTEY: The Preston Amateur Athletic and Social Club of Ottawa, and that is mentioned at page 33 of the brief. Page 3 of Appendix "K". It is also mentioned in Appendix "J" at pages 9, 17 and 20.

Q. This is a '35 incorporation, I believe, Mr. Cudney?

A. Yes, October, 1935, incorporated with head office at Ottawa.

Q. And, it appears down through the years to be an Ottawa club. Now, this illustrates something else about these returns, Mr. Cudney; would you look at the annual return

that we can see where we are going here, this is the work of [illegible], the moving of the Ottawa Community Club down to [illegible] is a role after the consolidation of another club, I suppose, is more difficult now with regard to 2(2) of the Act?

A. Yes, this is one of the clubs that is responsible for that going into the [illegible] the Ottawa being under the principles of this amendment, and this is one of the clubs where [illegible].

Q. Now, Mr. Gainey, I would like to deal with the Preston Western Athletic and Social Club of [illegible].

Do [illegible]:

A. [illegible] and Social Club of Ottawa, and that is mentioned at page 25 of the brief. Page 3 of Appendix "A". It is also mentioned in Appendix "D" at pages 9, 17 and 20.

Q. This is a '25 incorporation, I believe, Mr. [illegible]?

A. [illegible] with head office at Ottawa.

Q. And, it appears down through the years to be an Ottawa club. Now, this [illegible]

Q. [illegible] with the [illegible]

received for the year ending March 31st, 1936?

A. March 31st?

Q. 1936.

A. 1936, yes, here we are. Yes, I have it here.

Q. And, that was received by you in 1956?

A. Yes, that was received by me in 1956.

Q. Twenty years later?

A. Yes.

Q. And this is the part I am interested in: It mentioned that the officers of the club are R.W. Dawson, 650 Somerset Street West, as President; L.M. Thompson, Secretary, and B.J. Randall, Treasurer?

A. Yes.

Q. And, then, I take it, that the Department has noted that if the Ontario Provincial Police report is taken as comparison -- as a basis of additional information, rather -- that you find that the Secretary, L.M. Thompson, would be five years of age in 1936, and the Treasurer, B.J. Randall would be five years ~~old~~ of age (sic)?

A. This is a report that I asked the Provincial Police to go to Ottawa to investigate it.

Q. Yes.

[illegible] for the year ending June 30th, 1920.

A. Month 31st?

Q. 1921.

A. 1920, yes, here we are. Yes, I have it here.

Q. And, that was received by you in 1920?

A. Yes, that was received by me in 1920.

Q. [illegible]

A. Yes.

Q. And this is the part I am interested in: It mentions one Dr. Ritchie of the club and F.W. Newman, 320 Somerset Street West, as witnesses; E.A. Bennett, treasurer, and E.J. Randall, treasurer?

A. Yes.

Q. And, then, I take it, that the department has noted that if the Ontario Provincial Police report is taken as conclusive -- as a basis of additional information, rather -- that you find that the Secretary, L.M. Thompson, would be five years of age in 1920, and the Treasurer, E.J. Randall would be five years old of age (sic)?

A. This is a report that I have the provincial police to go to Ottawa to investigate it.

Q. Yes.

THE COMMISSIONER: The 1936 return showed who as the officers?

MR. ESTEY: It shows R.W. Dawson as President; L.M. Thompson, T-h-o-m-p-s-o-n, as Secretary and B.J. Randall, R-a-n-d-a-l-l, as Treasurer.

And the Provincial Police, in December, 1960, interviewed Thompson and Randall and reported their ages at the time they were elected as five and four.

THE WITNESS: I think there is a mention -- are they not the children of ---

MR. ESTEY: I think they are the children of Dawson.

A. That's right, yes.

Q. In any case, the usual circumstance seems to be ---

THE COMMISSIONER: Well, the children of Dawson, are they males?

MR. ESTEY: They are female, my lord.

The Provincial Police report is dated September 24th, 1960, and it says in part: The returns filed were false in listing these as directors in 1936 and onwards as in 1936 Mrs. L.M. Thompson was then Lila May Dawson, age 5, and Mrs. B.J. Randall was then Betty Jean Dawson, age 4 years.

Now, that is the usual condition of forfeiture, isn't it, Mr. Cudney?

[illegible]

[illegible]

[illegible]

A. Yes.

Q. And we move further into your files -- When did this club turn up in Toronto in your file?

A. We continue it in 1958, judging by the directors and the head office, they are still in Ottawa.

(Page 13078 follows)

E/5

MR. ESTEY: Q. I see in 1956 ---

A. 1956?

Q. 1956, that you were dealing with Mr. Dawson, and that clearly was in Ottawa at that time?

A. Yes.

Q. And, in 1957 and '8 the returns continue to show him as president?

A. In 1958, R.W. Dawson was the president.

Q. Yes.

A. But, then, in 1959 some Toronto names come into it. The directors all live in Toronto -- I am sorry, it changes in 1959 -- yes, the Ottawa names are the people who appear.

Q. It says the officers changed on the 2nd of January, 1959?

A. Yes.

Q. It would appear to be a reasonable guess that that club was sold in 1958, would it not?

A. It would seem so, yes.

Q. And, then, I should like to ask you this: This charter was ultimately cancelled in December, 1961, was it not, and the grounds?

A. In December, 1961, and the grounds, I think the grounds, were forfeiture of

MR. MATHY: Q. I see in 1959 ---

A. Right.

Q. 1959, that you were dealing with Mr. Dawson, and that already was in Ottawa at that time?

A. Yes.

Q. And, in 1959 and is the network continue to show him as president?

A. In 1959, R.W. Dawson was the president.

Q. Yes.

A. But, then, in 1959 some Toronto names come into it. The directors all live in Toronto -- I am sorry, it changes in 1959 -- yes, the Ottawa names are the people who appear.

Q. It was the officers changed on the 2nd of January, 1959?

A. Yes.

Q. It would appear to be a reasonable guess that that club was sold in 1959, would it not?

A. It would seem so, yes.

Q. And, then, I should like to ask you this: This director was voluntarily cancelled in December, 1961, was it not, and the Governor:

A. In December, 1961, and the Governor, I think the Governor, were involuntarily

corporate powers. I will just check that.

Q. Yes, I think that is right. I see in the file in that connection a memorandum by Mr. Margolian to the Provincial Police of the 2nd of September, 1960, asking for an investigation of the -- of all the accounts and the grounds for forfeiture under the old Act.

A. The 2nd of September of . . . ?

Q. The 2nd of September of 1960?

A. Yes. The Toronto Police had mentioned before, they had mentioned this club to me before they wrote, some time before they wrote.

Q. I take it that mention came to you about the month of September, 1960, your file seems to start without any record?

A. Yes, that's right, they mentioned it to me in the office when they were there in another matter; they were there on another matter, and they mentioned about the President to me.

THE COMMISSIONER: Well, the grounds are here cancelled for forfeiture of corporate powers and illegal gaming.

THE WITNESS: Yes, my lord, I am just trying to find my letter here.

MR. ESTEY: Q. There is a report, Mr. Cudney, of 17th of October, 1960, from

[illegible] [illegible]. I will [illegible] [illegible].

Q. Yes, I think that is right. I see in this file in that connection a memorandum by Mr. Hargraves to the Provincial Police of the 2nd of September, 1900, making for an investigation of the -- of all the accounts and the grounds for forfeiture under the old Act.

A. The 2nd of September of . . . ?

Q. The 2nd of September of 1900?

A. Yes. The [illegible] [illegible] mentioned before, they had mentioned this claim to me before they wrote, some time before they wrote.

Q. I take it that mention came to you about the month of September, 1900, your file seems to start without any record?

A. Yes, that's right, they mentioned it to me in the office when they were there on another matter, and they mentioned [illegible] [illegible].

THE CHAIRMAN: Well, the [illegible] are here cancelled for forfeiture of corporate [illegible] and [illegible].

THE WITNESS: Yes, my lord, I am just trying to find my letter here.

MR. [illegible]: Q. [illegible], Mr. [illegible], of 17th of October, 1900, from

Inspector Walker to Chief Mackey in which he says, "Frequented by a number of known and convicted professional gamblers".

MR. WILSON: We haven't had the name of the lawyer who was trying to support this club as yet. Let's name him.

MR. ESTEY: I think it is unfair of my friend, in view of the way the other clubs have been developed by my friend.

MR. WILSON: I have been showing unusual restraint, I thought, Mr. Commissioner, in view of the number of these other clubs which were mentioned by my friend without names.

MR. ESTEY: I will be very happy to give you the names when you want them, Mr. Wilson. Joseph M. Gould, G-o-u-l-d.

When you want the names, Mr. Wilson, just let them know.

MR. WILSON: Probably your firm will be there too.

MR. ESTEY: I think our firm are on three of them. There are no backlogs.

Q. Well, the name of the man that represented the club in Toronto -- which, I presume, is the reason for the outburst -- is clearly on this file, "Joseph M. Gould". He first comes into the file on the 22nd of February, 1960.

Now, there are other records involved

Inspector Warner to Chief Morley in which he says, "Preoccupied by a number of known and [illegible] criminal [illegible]".

Mr. [illegible]: [illegible] of the [illegible] who was [illegible] club as yet. Let's name him.

Mr. MORLEY: I think it is worth of my friend, in view of the way the other clubs have been [illegible].

Mr. [illegible]: I have been already [illegible] recording, I suggest, Mr. Commissioner, in view of the number of these other clubs which were mentioned by my learned friend.

Mr. MORLEY: I will be very happy to give you the names when you want them, Mr. Milson.

Mr. [illegible]: [illegible].

When you want ourselves, Mr. Milson, just let them know.

Mr. MILSON: Probably your Firm will be there too.

Mr. MORLEY: [illegible] there of them. There are no [illegible].

Q. Well, the name of the man who registered the club in Toronto -- which, I presume, is the reason for the [illegible] -- is clearly on this list, "Joseph M. Gould". He first comes into the title on the 22nd of February, 1920.

Now, there are some [illegible] letters

in the file. I cannot for the life of me see how they are relevant. There is an Ottawa firm -- I haven't noted it -- and, Mr. Ebbs. And, there is a Mr. Ebbs. I don't know whether the Provincial Secretary at that time was a lawyer, or not, but he is mentioned as conversing with Mr. Dawson, and I think those are all the lawyers other than Mr. Cudney that are mentioned in the file.

If Mr. Wilson would indicate to me when he wants the lawyers identified, I will be glad to tell him, but I do not propose to go through all of ---

THE COMMISSIONER: They are all identified in Appendix K anyhow.

7/E MR. ESTEY: Q. Where were we, Mr. Cudney?

A. You were on the report of Inspector Walker of October of 1960.

Q. That is the memo that gave rise to your cancelling of this club, was it not?

A. My letter cancelling it on the basis of forfeiture of corporate powers. There was a letter re illegal gaming, but the cancellation, I would say, was on the basis of forfeiture of corporate powers.

Q. I think perhaps it might be well to preserve the chronology of this development: The first report you have is September 24th, 1960, from Corporal McBride,

MR. FIAO. I merely the [illegible] [illegible] and does are relevant. There is an [illegible] item -- I haven't noted it -- are, Mr. Hanney. And, there is a Mr. Jobe. I don't know whether the Provincial Government at that time was a lawyer, or not, but as is mentioned in conversing with Mr. Gerson, and I think those are all the lawyers other than Mr. Conroy that are mentioned in the item.

If Mr. Wilson would indicate to me from his lawyers identified, I will be glad to call him, but I do not propose to go through all of ----

[illegible]: [illegible] identified in Appendix K anyhow.

MR. HANNY: Q. Where were we, Mr. Conroy?

A. You were on the report of Inspector Walker of October of 1960.

Q. Then in the one to that gave rise to your cancelling of this item, was it not?

A. My letter cancelling it on the basis of insufficiency of corporate powers. There was a letter to Lithogal Printing, but the cancellation, I think say, was on the basis of insufficiency of corporate powers.

Q. I think perhaps it might be well to preserve the chronology of this transaction: The first report you had in [illegible], [illegible] [illegible].

of the Ontario Provincial Police, is that right?

A. September 24th.

Q. I have read part of that, I think, although it would be helpful if you would read to the Commissioner ---

A. Yes, the report of September 24th from Constable -- Corporal J.S. McBride:

"With reference to the above "noted subject and further to a "memorandum of September 9th, 1960 . . . " ---

Q. I am wondering if it would not shorten proceedings if you started in with the actual investigation at paragraph 3.

A. "3. From investigation it "was learned that Mr. R.M. Dawson died "last March. The other two officers "are Mrs. Lila May Thompson and Mrs. "Betty Jean Randall, both daughters "of thedeceased Dawson, and both "presently residing at 1155 "Minetonka St., Ottawa.

"4. On September 15th, 1960, the "writer, in company with Prov. Const. "H. Beer, of this Detachment, inter- "viewed both Mrs. Thompson and Mrs. "Randall at their residence in "Ottawa, and from them the following "facts were learned;

"a) That the Club was inoperative,

of the Ontario Provincial Police, is that right?

A. September 24th.

Q. I have read part of that, I think, [illegible] --

A. Yes, the report of September 24th from Constable -- Corporal J.S. Morphie:

"With reference to the above "noted subject and further to a "memorandum of September 9th, 1950 . . . " --

Q. I am wondering if it would not shorten proceedings if you answered in what [illegible].

A. "3. Upon investigation it "was learned that Mr. R.M. Dawson (i.e. "Jack Mason, who owns two cottages "one Mr. Nils Roy Thompson and Mrs. "Betty Jean Randall, both daughters "of Inadequated Dawson, and both "presently residing at 1255 [illegible] [illegible].

"4. On September 4th, 1950, the "writer, in company with Prov. Const. "H. Deer, of the Government, Inter-"viewed Dom Mr. Thompson and Mrs. "Randall at their residence in "Ottawa, and from them the following "[illegible]:

"1) [illegible] [illegible] [illegible]."

"in that it held no meetings, from the
"year 1938 to 1958, when the Charter
"was sold. The Club held no property,
"paid no rent, nor did it have a bank
"account for this period.
"b) That the returns filed in 1956,
"for the years 1938 to 1956, were
"incorrect or false, in that they
"stated annual meetings were held
"each year, and that social activities
"were carried on, when in effect nothing
"was done.
"c) That the returns filed in (b)
"were also incorrect or false in
"listing them as directors in 1936
"and subsequent years, as in 1936
"Mrs. L.M. Thompson was then Lila May
"Dawson, age 5, and Mrs. B.J. Randall
"was then Betty Jean Dawson, age 4.
"Mrs. Thompson was married in 1952
"to a Mr. Donald Thompson, since
"deceased, and Mrs. Randall was
"married in 1953 to Mr. Albert George
"Randall.
"d) That the Charter was sold in
"1958 to an unknown person, by the
"now deceased R.M. Dawson, and that
"they did not know the amount of
"money involved, nor did they realize

"any amount of money from this trans-
"action.
"e) That neither Mrs. Thompson nor
"Mrs. Randall received any remuneration
"from the Club for any services
"rendered, and that all Club business
"had been done by their father, they,
"in fact, being only 'figureheads' in
"the Club.
"f) That they have no knowledge of
"any previous members of the Club.
"5. When the writer asked them to
"repeat this information in the form
"of a written or sworn statement, they
"refused, apparently in fear of
"criminal or civil liability. They
"did state, however, that they would
"seek legal advice, and would advise
"the writer, if they then wished to
"make a statement.
"6. On September 23rd, 1960, Mr.
"Glen Rowe, Q.C., Solicitor, of
"465 Gilmour St., Ottawa, contacted
"the writer, and advised that under
"the present circumstances of this
"matter, that neither of his clients,
"Mrs. Thompson or Mrs. Randall, were
"prepared to make any further
"statement regarding the operation

"[illegible] Company, [illegible]
"action.

"c) That neither Mrs. Thompson nor
"Mrs. [illegible] [illegible]
"[illegible]
"[illegible], and [illegible] Club Dwellings
"had been done by their Trustee, they,
"in fact, were only 'figureheads' in
"the [illegible].

"d) That they have no knowledge of
"any previous dealings of the Club.

"5. When the writer sent them to
"prepare this information in the form
"of a written or sworn statement, they
"returned, apparently in fear of
"criminal or civil liability. They
"did state, however, that they would
"seek legal advice, and would advise
"the writer, if they then wished to
"make a statement.

"6. On September 23rd, 1910, Mr.
"Glen Howe, K.C., Solicitor, of
"40½ Grenville St., Toronto, communed
"the writer, and advised that under
"the present circumstances of this
"matter, that Trustee of his clients,
"Mrs. Thompson or Mrs. Hamlett, were
"prepared to make any further
"statement regarding the operation

"of the Preston Amateur Athletic and
"Social Club of Ottawa. He did
"however, state, that in the interest,
"and on behalf of his clients, it
"was his intention to contact the
"Office of the Deputy Provincial
"Secretary, direct.
"7. In view of the foregoing facts,
"may this file be considered closed.
"8. Correspondence returned herewith,
"as directed."

And it is signed, "J.S. McBride".

E/8 Q. And, then, we have the police report which came in the following month, September 16th.

A. Yes. This police report was Provincial Police; we had asked them to go to Ottawa when the City Police had mentioned it.

Q. Then, I see in October 17th you had the Metro report which dealt with it, at least, with part of it, and that is quite long, isn't it, Mr. Cudney?

A. Yes, the Metro report, yes. It is October 17th, 1960. Is that the one?

Q. Yes, that is it.

A. It is two and a half pages.

Q. All right, let's not read that one. I notice two things of interest in it: One is

"[illegible] Ottawa. He did
"[illegible] in the Ottawa,
"and on behalf of the citizens, it
"was the intention to demand the
"[illegible] Ottawa Provincial
"Exchange, [illegible].

"[illegible] at the [illegible]
"may this life be considered closed.
"[illegible]
"[illegible]."

And it is signed, "J.S. McNair".

Q. And, then, we have the police report which came in the following month, [illegible].

A. Yes. This police report was Provincial Police; we had asked them to go to Ottawa when the City Police had [illegible] [illegible].

Q. Then, I see in October 1[illegible] [illegible] [illegible] at least, [illegible] of it, and then in [illegible], isn't it, Mr. Chaney?

A. Yes, the [illegible] report, yes. It is October 1[illegible], 1[illegible]. In what one [illegible]

Q. Yes, [illegible] it.

A. It is one and a half pages.

Q. All right, let's [illegible] read this one. I notice two things of interest in it: one is

the quotation I gave you before, that the place was frequented by known professional gamblers. And, about midway in that report it mentions that this club was used to take over the control and the management of the club, of the Orillia Athletic and Social Club which had a Dominion Charter. Do you see that?

A. Yes, I will just read that:

"The Charter of the Orillia "Athletic and Social Club Limited "was to be taken from this club and "the club was to be disbanded."

I think I should just read a little before that ---

THE COMMISSIONER: Q. The Orillia what?

A. Orillia Athletic and Social Club.

MR. ESTEY: Q. You acted on that report which you received in October. I see -- I don't see any action taken in that file until the following spring in May when you fixed the date for hearing; is that true?

A. The City Police report is Chief Mackey's letter of October 19th, '60.

Yes, this was a group that I picked up on my return in the spring.

Q. Well, then, without going into the details of that, you held a hearing at which the police were present and then you cancelled the charter in the usual way on the

grounds of forfeiture?

A. Yes. Well, there were ---

THE COMMISSIONER: Q. No, that is a fact? Is that the end of that one . . .

MR. ESTEY: Yes, that is the end of that.

THE COMMISSIONER: Q. . . . Mr. Cudney?

MR. ESTEY: Q. That is correct, is it, Mr. Cudney?

A. It was cancelled, I would say, I notice my letter -- in the cancellation of the club I mention the grounds of forfeiture, and in the hearing I confined it to the grounds mentioned in the letter.

Q. I see in Mr. Lavine's memo that it was clear that the club did not go into operation for twenty years after the filing of the letters patent?

A. Yes, that was clear; I don't think there was a clearer case of forfeiture.

---Whereupon the hearing adjournedat 1.10 p.m. until 2.15 p.m.

(Page 13090 follows)

Cross-Examination

A. Yes. Well, there were ---

THE QUESTIONER: Q. Is that in a line?

Is that the end of that one . . .

MR. KANE: Yes, that is the end of that.

THE COMMISSIONER: Q. . . . Mr. Cudney?

MR. KANE: Q. That is correct, is it, Mr. Cudney?

A. In the cancellation, I would say, I notice my letter -- in the cancellation of the club I mention the grounds of forfeiture, and in the hearing I confined it to the grounds mentioned in the letter.

Q. I see in Mr. Levine's mean time it was clear that the club did not go into negotiation for house work after the filing of the Lorsch report?

A. Yes, that was clear; I think there was a clearer case of forfeiture.

(Page 1303) follows)

AA/1/JMcG

---On resuming at 2:15 o'clock p.m.

---The witness resumed the stand.

MR. ESTEY: Mr. Commissioner, this may be a convenient time to pick up a loose end left over from yesterday. At thattime we dealt with the Spadina Social and Card Club indicating there had been an underlying club which had applied for a charter which was refused. We have now had an opportunity of going through the active files to put this skein together and I would like to examine Mr. Cudney briefly on the Spadina Social and Card Club which was referred to yesterday.

THE COMMISSIONER: Yes.

THE WITNESS: That was in 1948.

MR. ESTEY: Q. Yes, but first of all, this application was turned down by you after police reports werereceived and subsequently a charter was issued.

A. That was in 1949. I wouldn't say it was turned down. That was one I discussed with my Minister. The subsequent supplementary application that I turned down without reference was one I discussed with my Minister. I didn't turn it down in the first instance. I didn't make the decision. It is thirteen years ago and as I say I don't remember it except for what is in the memo.

MR. HENRY: Mr. Commissioner, this may be a convenient time to deal in a large and well-rounded fashion. As I understand it, there has been an understanding, that when had applied for a charter which was refused. We have now had an opportunity of going through the active files to put this block together and I would like to examine Mr. Gentry briefly on the Spadina Social and Sand Club which was referred to yesterday.

THE COMMISSIONER: Yes.

THE WITNESS: That was in 1953.

MR. HENRY: Q. Yes, but first of all, this application was turned down by you after quite careful consideration and subsequently a charter was issued.

A. That was in 1953. I wouldn't say it was turned down. That was one I discussed with my Minister. The subsequent supplementary application that I turned down without reference was one I discussed with my minister. I didn't turn it down in the first instance. I didn't even [illegible]. It is thirteen years ago and as I say I won't remember it except for what is in the note.

Q. Oh, yes, all right. This is one where you interviewed the people the Provincial Police had interviewed before?

A. That is right, Slater and Sloteroff.

Q. And Mr. Porter intimated a charter should be issued and you did issue it?

A. Yes.

Q. And in the police report of the Spadina Social and Card Club there is reference made to the Spadina Social Club and you and Mr. MacKenzie were good enough to give us the file on that. I believe the Spadina Social Club application was made on the 24th of February , 1948?

A. The application is dated March 2nd, 1948 and I received it on March 3rd, 1948.

Q. Is there any correspondence ahead of that indicating there were some changes made?

A. Oh, yes, an application was received on February 1st, 1948.

Q. I wonder if we can do this without unnecessarily complicating the thing. The application for the Spadina Social Club was for 548 Dundas Street West; is that true?

A. This was the 1948 application, you mean?

Q. Yes?

A. No, it just says "within the City

Q. Oh, yes, all right. This is one [illegible] Police had interviewed before?

A. That is right, Sir.

Q. And Mr. [illegible] [illegible] character should be issued and you did issue it?

A. Yes.

Q. And in the police report of the [illegible] made to the Spadina Social Club and you and Mr. McKenzie were good enough to give us the view on that. I believe the Spadina Social Club application was made on the 24th of [illegible], 1946?

A. The application was made [illegible] 2nd, 1946 and I received it on March 2nd, 1946.

Q. In [illegible] [illegible] [illegible] [illegible]

A. Yes, an application was received on February 1st, 1946.

Q. I wonder if we can do this matter unnecessarily complicating the thing. The application for the Spadina Social Club was for 240 Dundas Street West; is that right?

A. This was the 1946 application, you mean?

Q. Yes?

A. [illegible]

of Toronto and not elsewhere". This was before we limited them to a particular address. The application just says, "within the City of Toronto".

THE COMMISSIONER: Q. This was the club that originated for the benefit of those engaged in the garment business?

MR. ESTEY: That is where this started yesterday, Mr. Commissioner.

Q. In your file on the Spadina Social Club, that is the first Spadina file if I may call it that, there was a report in 1948 from the O.P.P. which refers to this club and says it was to be operated on the premises of the Old Grads Club.

A. Yes, on the premises of the Old Grads Club.

Q. Now, let us follow this up; the Old Grads Club operated, according to your file, at 548 Dundas Street West?

A. In the return, Mr. Estey, the name was The Grads Baseball Club of Toronto and in 1945 the annual return indicated the head office was at 548 Dundas Street West in the City of Toronto.

Q. Now, we have the sequence - the Grads Club was located at 548 Dundas Street West and the first Spadina application was in respect to 548 Dundas Street West. Now, to

of Toronto one red clearance". This was before we limited them to a particular address. The application just says, "within the City of Toronto".

THE CHAIRMAN: Q. This was the club that originated for the benefit of those engaged in the garment business?

MR. FORTUNE: That is where this started yesterday, Mr. Commissioner.

Q. In your file on the Spadina Social Club, that is the first Spadina file if I may call it that, there was a report in 1946 from the C.P.P. which refers to this club and says it was to be operated on the premises of the Red Cross Club.

A. Yes, on the premises of the Old Grads Club.

Q. Now, let us follow this up; the Old Grads Club operated, according to your file, at 546 Dundas Street West?

A. In the record, Mr. Foley, the name was The Grads Recreat Club of Toronto and in 1945 the annual return indicated the head office was at 546 Dundas Street West in the City of Toronto.

Q. Now, we have the reference - the Grads Club was located at 546 Dundas Street West and the first Spadina application was in respect to 546 Dundas Street West. Now, in

fill in the picture it indicates the Grads Club charter was cancelled in March, 1948?

A. Yes, the effective date was March 25th, 1948.

Q. The order-in-council was dated the 4th of March?

A. Yes.

Q. So you have the Grads Club charter cancelled in March, 1948, and you then have an application for the Spadina Social Club at the same address, dated February 25th, 1948 during the cancellation procedure in regard to the other club, I suppose.

A. No, the Grads Club charter was cancelled in March, 1948.

Q. And this application was in the last few days of February, 1948?

A. Yes.

THE COMMISSIONER: I thought you said March 25th, 1948.

A. That is the date of the order-in-council.

Q. The application of the Spadina Social Club was dated the 25th of February?

A. Yes.

Q. The same year?

A. Yes.

Q. The charter had not yet been cancelled, Mr. Estey.

[illegible] to the effect of [illegible] the charter and [illegible] in [illegible]?

A. Yes, the effective date was March, [illegible].

Q. [illegible]

[illegible]?

A. Yes.

Q. [illegible] March [illegible], 1920, [illegible] to [illegible] the same address, dated February 25th, 1920 [illegible] the [illegible] to the other club, I suppose.

A. No, the deed this morning was [illegible] in [illegible].

Q. And this application was in the last few days of February, 1920?

A. Yes.

THE COMMISSIONER: I thought you said [illegible].

A. That is the date of the [illegible] contract.

Q. The application of the Beaches Social Club was [illegible]?

A. Yes.

Q. The same year?

A. Yes.

Q. The charter had not yet been [illegible].

MR. ESTEY: No, my lord, the proceedings were going forward.

Q. Now, unless I am mistaken, the lawyer for the Grads Club was F.J. Gardner, Q.C.?

A. Pardon me a second.

Q. I think you will see in the old file Mr. Gardner went to see Mr. Mitchener.

A. This was the Grads Veterans.

THE COMMISSIONER: The what?

A. The Spadina Social Club.

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MR. ESTEY: We are talking about the Grads Club?

A. Yes.

Q. Was the proper name the Old Grads Club?

A. The name was --

Q. Was it the Grads Baseball Club?

A. The Grads Baseball Club of Toronto., and, my lord, the name was changed to the Grads Veterans Baseball Club.

THE COMMISSIONER: Changed to what?

A. The Grads Veterans Baseball Club.

MR. ESTEY: Q. Your file on that club is O-26733?

A. Yes.

Q. You will see in there a letter from Mr. Gardner to Mr. Michener, the then Provincial Secretary, about these convictions.

[illegible]

Q. [illegible]: Yes, my Lord, [illegible] have spoken [illegible].

Q. Mr. [illegible] I [illegible] Chapter [illegible] Club was [illegible], [illegible] W.G.?

A. Pardon me a second.

Q. I think you will see, sir, the old file.

Mr. Gardner went to see Mr. McKenzie.

A. [illegible] and the Canada [illegible].

THE [illegible]: The [illegible]?

A. The Spadina Social Club.

Mr. [illegible]: [illegible] Club [illegible] Club?

A. Yes.

Q. Was the proper name the old Grenadier Club?

A. The name was --

Q. Was it the Canada Baseball Club?

A. The Canada Baseball Club of Toronto, and, my Lord, the name was changed to the [illegible] Baseball Club.

THE COMMISSIONER: Changed to what?

A. The Canada Veterans Baseball Club.

Mr. BOYCE: Q. Your file on that club is O-8375?

A. Yes.

Q. You will see in there a letter from Mr. Gardner to Mr. McKenzie, the town [illegible], about some [illegible].

A. Yes.

Q. Let us return to the main stream; we have these facts so far - you have the Grads Veterans Club located at 548 Dundas Street, and their charter was cancelled.

A. Yes - pardon me a second.

MR. WILSON: Unless the notes in my brief are wrong, the date of the incorporation of the Spadina Social Club was in 1949.

A. That is the Spadina Social and Card Club.

MR. WILSON: What are you talking about?

THE COMMISSIONER: Q. At the time the charter of the Grads Baseball Club was being proceeded with towards cancellation, an application was made by the Spadina Social Club, and now you are referring to some correspondence that took place relative to the incorporation of the Spadina Social Club.

MR. ESTEY: Yes, that is right, sir.

Q. Now, can you find the Spadina Social Club file? I believe there is some correspondence in it leading up to this, leading up to the names which the police objected to, and it was withdrawn. One amended petition was filed and that gives rise to the difference in the date which you told us about a moment ago.

A. I see an application was submitted

A. Yes.

Q. Let us return to the main stream; we have these facts so far - you have the Total Abstinence Society established at Port Dover, Ontario, and their character was cancelled.

A. Yes - pardon me a second.

Mr. WILSON: Unless the notes in my brief are wrong, the date of the incorporation of the Spadina Social Club was in 1919.

A. [illegible]

Mr. WILSON: What are you talking about?

THE COMMISSIONER: Q. At the time the charter of the Grenda Benevolent Club was being proceeded with towards cancellation, an application was made by the Spadina Social Club, and now you are referring to some correspondence that took place relative to the incorporation of the Spadina Social Club.

Mr. [illegible]: Yes, that is right.

Q. Now, can you find the Spadina Social Club file? I believe there is some correspondence in it leading up to this, leading up to the manner which the police objected to, and it was withdrawn. The amended position was filed and that gives rise to the difference in the date which you took us about a moment ago.

A. I see an application from committee

on February 25th and then there was a letter of the solicitor that the application should be made by persons who continued to be members after the application.

Q. In any case the application was refused?

A. The application was then referred to both police forces.

Q. I have a note it was refused on April the 7th, 1948.

A. Yes, I wrote the solicitor for the applicant.

THE COMMISSIONER: Q. Is that right?

A. Yes, that is right.

MR. ESTEY: So we don't lose the thread here, it was the Grads Club charter that was cancelled in early March and then you have an application by the Spadina Social Club and that was refused on April 7th. Then the next event is in May, 1948 and we find an application for incorporation of the Acme Card and Social Club, 548 Dundas Street.

THE COMMISSIONER: For what?

A. My lord, it was the Acme Card and Social Club.

Q. What address was that, Mr. Estey?

MR. ESTEY: 548 Dundas Street.

Q. The same address?

A. The same address. As far as the

on February 28th and then there was a letter of the solicitor stating the application should be made by persons who continued to be members of the organization.

Q. In any case the application was refused?

A. The application was then referred to both police forces.

Q. I have a note it was referred on March the 7th, 1949.

A. Yes, I wrote the solicitor for the organization.

THE CONSTABLE: Q. Is that right?

A. Yes, that is right.

MR. KENNY: So we don't have the answer here, it was the Grande Club character that was cancelled in early March and then you have an application by the Spadina Social Club and that was refused on April 7th. Then the next event is in May, 1949 and we find an application for incorporation of the Aqua Grand and Social Club, 548 Dundas Street.

[illegible]

A. My lord, it was the Aquila Grand and Social Club.

Q. What address was that, Mr. Kenny?

MR. KENNY: 548 Dundas Street.

Q. [illegible]

A. The same address. As far as the

charter goes it says: "Within the City of Toronto".

Q. And in the police investigation you say again the reference is the same as the Spadina Club.

THE COMMISSIONER: Q. They proposed to operate at 548 Dundas Street?

A. Yes, sir.

Q. Let us get on from there.

MR. ESTEY: Q. The Acme Club appeal was lost?

A. Yes.

Q. And I think you have found in some part of your records a card from a lawyer.

A. Yes.

Q. And what is the name of the lawyer?

A. It is Parkinson, Gardner.

Q. Did you grant the application?

A. Yes, the charter was granted and dated May 15th,1948.

Q. We will come back to the detailed operation of that club but to carry on this chain of events, in the Spadina Social and Card Club incorporation an application was made in February, 1949. I think you told us that yesterday.

A. I will just get that file.

THE COMMISSIONER: The charter was dated April 1st, 1949.

[illegible] is [illegible]:

Toronto".

Q. And in the police investigation you say again the reference is the same as the Bedford Club.

THE COMMISSIONER: Q. They proposed to operate at 545 Dundas Street?

A. Yes, sir.

Q. Let us get on from there.

Q. [illegible] Club [illegible] was lost?

A. Yes.

Q. And I think you have found in some part of your records a card from a lawyer.

A. Yes.

Q. And what is the name of the lawyer?

A. It is Tadkinson, Gardner.

Q. Did you issue the application?

A. Yes, the character was issued [illegible].

Q. He will come back to the question of the operation of that club but to carry on this again of events, in the Spadina Social and Card Club incorporation application was made in November, 1949. I think you told us that [illegible].

A. I will just get that file.

THE COMMISSIONER: The character was issued [illegible].

THE WITNESS: The application was received on February 18th, 1949.

MR. ESTEY: Q. That is the one where there was some delay and ultimately the Provincial Secretary directed that application be granted?

A. I forget the details - this is just a memorandum.

Q. We just want to be sure of that.

A. Yes.

Q. There was an application shortly thereafter, or in August, 1957 to move that address to 560 King Street West?

A. Yes.

Q. And that is the instance where you objected to the order?

A. Yes.

Q. Now, a number of these transactions, and most of these clubs are mentioned in the police reports. The Acme Social Club is mentioned in Inspector Walker's report of February 2nd, 1960. Do you have that?

A. Yes, I have that, Mr. Estey.

THE COMMISSIONER: Q. That is the Acme Club.

MR. ESTEY: Yes, the Acme Card and Social Club file. For the record, page 3 of that report purports to give the threads of what we have gone through now where there

THE CHAIRMAN: The stenographer has recorded the testimony this, Mr.

MR. HURLEY: Q. That is the one whose [illegible] Preliminary examination [illegible] be granted?

A. I forget the details - this is just a [illegible].

Q. We just want to be sure of that.

A. Yes.

Q. Have you by [illegible] transcript, on 1st August, 1927 to move that address to 590 King Street West?

A. Yes.

Q. And that is the instance where [illegible] in the [illegible]

A. Yes.

Q. Now, a number of these transactions, and most of these claims are mentioned in the police reports. The Anne Social Club is mentioned in Inspector Wallace's report of February 2nd, 1930. Do you have that?

A. Yes, I have that, Mr. Hurley.

THE CHAIRMAN: Q. This is the Anne Club.

MR. HURLEY: Yes, the Anne Club and Social Club file. For the record, page 3 of that report purports to give the charges of that we have gone through our files these

AA/3

is the first attempt to replace the charter and the same general people are involved and it was the same address, and the charter started with the Grads Veterans Club and ended up with the Acme Club.

THE WITNESS: That is on page 3.

MR. ESTEY: Q. Do you see it?

A. Yes.

Q. That report takes you down to where I left off dealing with moving the Spadina Social and Card Club and so on?

A. Yes.

Q. That is a rather complicated pattern for which I apologize, my lord. I apologize for bringing it out in that way but it seems impossible to bring it out inany other way.

THE COMMISSIONER: I am following you. Was there any interlocking?

MR. ESTEY: The interlocking occurs at the very end of the sequence. There is no interlocking between the two Spadina clubs. The interlocking on the first three clubs started with the cancelling of the charter and we had representations to the lawyers to preserve it and they are all the same address but there is no overlapping of personnel other than they did have the same lawyer. At the end of the sequence of events we have

is the first attempt to replace the charter and has more general powers and involves an it was the same address, and the charter started with the Grads Veterans Club and ended up with the Aces Club.

THE WITNESS: That is on page 3.

MR. HENRY: Q. Do you see it?

A. Yes.

Q. That report takes you down to where I left off dealing with moving the Spadina Social and Grad Club and so on?

A. Yes.

Q. That is a rather complicated pattern for which I apologize, my lord. I apologize for bringing it out in that way but it seems impossible to bring it out in any other way.

THE COMMISSIONER: I am following you. Was there any interlocking?

MR. HENRY: The interlocking exists at the very end of the sequence. There is no interlocking between the two Spadina clubs. The interlocking on the first three clubs assured with the cancelling of the charter and we had representations to the lawyers to preserve it and they are all the same address but there is no overlapping of personnel other than they did have the same lawyer. At the end of the sequence of events we have

the interlocking of individuals. The Spadina Social and Card Club had two directors who always attracted the attention of the police in their reports, Joseph Tripodi and Louis Brickman. They always turned up.

THE COMMISSIONER: Louis what?

MR. ESTEY: Louis Brickman, my lord.

THE COMMISSIONER: Attached to the same particular club?

MR. ESTEY: They are in the Spadina Social and Card Club at 560 King Street, that is the address to which it moved.

THE COMMISSIONER: Mr.Cudney will be following you and will let you know if you are wrong.

MR. ESTEY: Now, the purpose of this last sequence, the purpose of that last illustration is to show that the St.Patrick's charter was cancelled out at 560 King Street West in September, 1957 and these two persons were amongst the directors and its place was taken at 560 King Street West by the Spadina Social and Card Club.

A. That is correct, yes.

Q. All of which is submitted, my lord, as I will later on point out, to show the purpose for the subtle moves of corporations and directors to fill holes caused by cancellations.

[illegible]

always attended the convention of the police in [illegible], always followed our [illegible] [illegible] [illegible].

THE COMMISSIONER: Louis what?

MR. [illegible]: [illegible], my lord.

THE COMMISSIONER: Attached to the [illegible] [illegible].

MR. [illegible]: They are in the Gaulois and Club at 500 King street, that is the address in [illegible].

THE COMMISSIONER: Mr. Gadney will be following you and will let you know if you are [illegible].

MR. [illegible]: Now, the purpose of this [illegible] evidence, the purpose of that [illegible] information is to show that the St. [illegible]'s [illegible] was [illegible] and at 500 King Street [illegible] in [illegible], [illegible] and there two persons were [illegible] the [illegible] and the [illegible] was taken at 500 King Street West by the [illegible] [illegible] and [illegible].

A. Yes, [illegible] correct, yes.

Q. Will [illegible] is [illegible], my lord, as I will leave [illegible] only, to show the purpose for the [illegible] move of [illegible] and [illegible] to [illegible] [illegible] by [illegible].

THE COMMISSIONER: Just start at the tail end of that story. Tripodi and Brickman were directors of the St.Patrick's Recreation Club and the last place of operation of that club was 560 King Street West.

MR. ESTEY: Yes, my lord, I must correct myself, I knew it was too simple to be true. It moved from 560 King Street West to make way for the Spadina Social and Card Club and moved to 39 Clinton Street.

MR. WILSON: In what year did it move?

MR. ESTEY: In 1957.

THE COMMISSIONER: What part of 1957?

MR. ESTEY: Q. Mr. Cudney, have you got that date?

(Page 13101 follows)

THE COMMISSIONER: Just start at the tail end of that story. Tadpoole and Bachelorson were directors of the St.Petersburg Democratic Club for the last year. Is that the of that club was 340 King Street West.

MR. MOREY: Yes, my Lord, I must correct myself, I know it was too simple to be true. It moved from 340 King Street West to make way for the Spadina Social and Card Club and moved to 34 Clinton Street.

MR. [illegible]: Is that your [illegible]

MR. MOREY: In 1897.

THE COMMISSIONER: Was part of 1897?

MR. MOREY: C. M. Gudney, have you got that date?

(Page 1,901 follows)

A.

St.Patrick's Club file shows that in 1939 the address was 560 King Street West. There are no returns and apparently at the time of the cancellation they were at 41-43 Clinton Street. That was in April, 1960. On March 31st, 1959, they were at 560 King Street West.

THE COMMISSIONER: Now I am getting confused. You say the Spadina Social and Card Club originally had its place of operation at 163½ Spadina Avenue and in August of 1957 they applied to change the site to 560 King Street West?

A. Yes, that is right.

THE COMMISSIONER: I think I am right.

A. Yes.

Q. Now, you say thatin August, 1957 and until later, in fact until 1959 the St. Patrick's Recreation Club was situated at 560 King Street West.

A. That is what appears from the annual returns.

Q. Was the Spadina Social and Card Club going to move in with the St.Patrick's Club? It seems a strange state of affairs. Can you bring that out,Mr. Estey?

MR. ESTEY: Yes, my lord, the police report on Acme on the 4th of February, 1960 to Chief Mackey from Inspector Walker deals with it.

86.Rutlock's Club File shows that in 1939 the Gateway Inn Club Moved Here. There are no records and apparently at the time of the reorganization they were at 32-42 Sterling Street. Here was in April, 1941. In Fewer Time, 1939, there were at 1ll Elm Street Here.

MR. CROSSEXAMINED: Are I to gather from your. You say the Spanish Ranch and Club originally had its place of operation at 1039 Spanish Avenue and in August of 1939 they applied to change the site to 300 Elm Street Here?

A. Yes, that is right.

THE COURT: I think I am right.

A. Yes.

Q. Now, you say Theodin Amper, 1937 and until later, in fact until 1939 the Rutlock's Recreation Club was situated at 300 Elm Street Here.

A. That is what appears from our social records.

Q. Was the Spanish Social and Card Club going on here in 1939 the Plaintiff's Story? It became a strange place of affairs. Can you shed that light, Sir?

MR. HERLY: Yes, my Lord, the police report on Home on the 4th of February, 1939 in Chief Malay from Inspector Rufus Smith was

16.

THE COMMISSIONER: Where was the Acme Club then?

MR. ESTEY: Perhaps it would all fall into place if I read the paragraph:

"During the ensuing years until "1956, numerous complaints regarding "illegal gambling and betting "activities were registered at the "Morality Bureau on the charter "club locations as follows: Acme "Card and Social Club, 548 Dundas "Street West.

"Spadina Social and Card Club, "163½ Spadina Avenue.

"St.Patrick's Recreational Club, "560 King Street West.

"Springburn Club, 1764 St.Clair "Avenue West.

"Springburn Club (Branch), 39-41 "Clinton Street.

" On September 16th, 1957, the "charter of the Springburn Club and "Branch were cancelled after a con- "viction was registered for keeping "a common gaming house which resulted "in the St.Patrick's Recreational "Club moving from 560 King Street "West to the Springburn (Branch) "location at 39-41 Clinton Street.

"The St.Patrick's Recreation Club
"was charged as a common gaming
"house on December 31st, 1959,
"the disposition of this case being
"still pending.
" In December, 1957, application
"was made to the Deputy Provincial
"Secretary's office by the Spadina
"Social and Card Club to move the
"club premises and head office
"to the former location of the
"St.Patrick's Recreational Club at
"560 King Street West. This change
"of premises was strongly opposed
"by the Police Department but, the
"application was granted and the
"move was made. The Spadina Social
"and Card Club was charged on May
"12th, 1959 as a common betting house
"and with selling lottery tickets.
"On January 5th, 1959 Joseph Tripodi,
"the president, was convicted of selling
"lottery tickets and received a
"suspended sentence. On September
"3rd, 1959, a charge of keeping a
"common gaming house was laid against
"Tripodi resulting in a conviction
"on October 23rd, 1959. It may be
"pointed out at this time that

"The St.Patrick's Recreation Club
"was founded as a women's public
"dance in December 31st, 1920.
"The discontinuing of this dance being
"still pending.

In December, 1929, application
"was made to the Licence Provincial
"Secretary's office by the Spadina
"Social and Card Club to move the
"club premises and head office
"to the former location of the
"St.Patrick's Recreational Club at
"[illegible] Street. This change
"of premises was strongly opposed
"by the Police Department but, the
"application was granted and the
"move was made. The Spadina Social
"and Card Club was charged on May
"12th, 1929 as a common betting house
"and with selling lottery tickets.
"On January 4th, 1930 Sidney Tripp,
"the president, was convicted of selling
"lottery tickets and received a
"suspended sentence. On September
"3rd, 1929, a charge of keeping a
"common gaming house was laid against
"Tripp't resulting in a conviction
"on October 23rd, 1929. It may be
"pointed out at this time that

"Joseph Tripodi was shown as
"president of the St.Patrick's
"Recreational Club at that
"address in 1957.
" It is obvious from the
"aforementioned facts that a
"common interest exists among the
"clubs regarding location and
"control."

THE COMMISSIONER: Your returns show the St.Patrick's Club was located at 560 King Street West.

MR. ESTEY: Yes, my lord, in March, 1959.

THE COMMISSIONER: According to Mr. Walker's report they had moved.

THE WITNESS: I don't know whether it makes any difference but 560 King Street West is the location of the head office. It is likely the same.

MR. ESTEY: In any case, we see a rather complicated game of musical chairs being played by these clubs and everybody was in step and the only flat note was Mr. Cudney cancelling the charter. These five clubs seemed to have moved around in the same pattern and they had the same lawyer throughout.

MR. WILSON: You didn't mention Mr. Gould.

MR. ESTEY: Ever since I was upbraided

"Joseph Tedeschi was shown as
"President of the St.Patrick's
"Aeronautical Club at that
"address in Lynn.
" [illegible]
"[illegible] VANCE [illegible]
"[illegible]
"[illegible]
"[illegible].
[illegible]: [illegible]
the St.Patrick's Club was located at 500 Ocean
Avenue [illegible].
Mr. MOTTA: Yes, my lord, in March, 1920.
[illegible]: According to Mr.
Walker's report they had moved.
[illegible]: I don't [illegible]
[illegible] and [illegible]
is the location of the head office. It is
likely the same.
Mr. MOTTA: In any case, we see a rather
complicated game of radical chairs being played
by these clubs and everybody was in step and
the only flat note was Mr. Gandy cancelling
the charter. These five clubs seemed to
have moved around in the same pattern and
[illegible] [illegible]:
Mr. VILLONE: You didn't mention Mr.
Gandy.
Mr. MOTTA: Yes since I was [illegible]

by you I haven't named lawyers.

THE COMMISSIONER: What difference does it make?

MR. WILSON: My friend likesto mention all the Conservatives but he likes to overlook the Liberals.

THE COMMISSIONER: What position do you have here?

MR. WILSON: I am here as Commission counsel trying to keep this thing in proper balance.

THE COMMISSIONER: I am here too and I do not think it makes a particle of difference what political parties these men belong to.

MR. WILSON: Well, if it appears in the press, as it has appeared, we should have all political parties named, not just one.

THE COMMISSIONER: We have got that.

(Page 13115 follows)

MR. WILSON: My friend likes to mention all the Conservatives but he likes to overlook the Liberals.

THE COMMISSIONER: What position do you take?

MR. WILSON: I am here as Commission counsel trying to keep this thing in proper balance.

THE COMMISSIONER: I am here too and I do not think it makes a particle of difference what political parties these men belong to.

MR. WILSON: Well, if it appears in the press, as it has appeared, we should have all political parties named, not just one.

THE COMMISSIONER: We have got that.

(Mr. Lyons follows)

BB/1/FAL

MR. ESTEY: Q. Now, then, Mr. Cudney, I would like to keep on with -- just finish up what we were at this morning as quickly as I can. This is the question of the transfer, to use the word improperly, transfer of the control or ownership of these corporations without share capital. I would like you to turn to the Sorauren Social Club.

THE COMMISSIONER: Where does that appear?

MR. WILSON: It may save re-examination if we could clear up whether or not my friend is suggesting that the Spadina Social and Card Club was at any time at 548 Dundas Street West.

THE COMMISSIONER: He has not suggested it was.

MR. WILSON: I could not be clear from what was going on whether he was making that suggestion or not.

MR. ESTEY: I reviewed the file yesterday in some detail and that address does not appear in the provincial file.

THE COMMISSIONER: There were two addresses only; 163½ Spadina, and the other, 560 King Street.

MR. WILSON: That is my understanding.

THE COMMISSIONER: Where does the Sorauren Social Club --

MR. ESTEY: It appears in Appendix K, Mr.

MR. MOTLEY: O. Now, then, Mr. Gidney, I would like [illegible] -- [illegible] up what we were at this morning as quickly as I can. This is the question of the treasurer, to use the word temporarily, treasurer of the control or ownership of these corporations without share capital. I would like you to turn to the Sorauren Social Club.

THE COMMISSIONER: Where does that appear?

MR. WILSON: It may have re-commencement if we could clear up whether or not my friend is [illegible] the [illegible] Social Club was at any time at 594 Dundas Street West.

THE COMMISSIONER: He has not argued it was.

MR. WILSON: I could not be clear from what was going on whether he was making that supposition or not.

MR. MOTLEY: I reviewed the file yesterday in some detail and that address does not appear in the provincial file.

[illegible] only: 1[illegible] Spadina, and the corner, 140 Niagara [illegible].

MR. WILSON: That is my understanding.

[illegible]

Sorauren Social Club --

MR. MOTLEY: It appears in Assembly K, Mr.

Commissioner, at page8 and Appendix J at pages 8, 18 and 20. The reference at page 8 of Appendix K gives a summary of the Metropolitan Toronto Police reference to this club, giving the addresses at Dundas Street West and Yonge Street. Incorporated in 1947 and cancelled December, 1960.

Q. Do you have that file, Mr. Cudney?

A. Yes, I have, Mr. Estey.

Q. On your C file there is the usual situation, and I do not say that critically of the Department, I say this usual situation we find in one of these cancellation files, where in the history of it we find, for example, from 1947 to 1950 no returns. Then, they come in together. This seems to be a Toronto club. Then, in 1959 we find all the officers resign.

THE COMMISSIONER: Wait a minute. I cannot write quite as quickly as you talk.

Incorporated on January 15, 1947?

A. 1946,my lord.

MR. ESTEY: I think the letters patent are dated December 24, 1946.

Q. Mr. Cudney, is that correct?

A. That is correct.

Q. December 24?

A. December 24.

THE COMMISSIONER: Then, the brief is wrong.

Commissioner, as page 6 and Appendix 2 at pages 8, 13 and 60. The reference at page 6 of Appendix K gives a summary of the Metropolitan Toronto Police reference to this club, giving the addresses as [illegible] and [illegible]. [illegible] in 1917 and [illegible] December, 1930.

Q. Do you have that file, Mr. Gainey?

A. [illegible], Mr. Chairman.

Q. On your C file there in the usual alphabet, can I do not say that officially of the Department, I say this usual alphabet be find in one of these cancellation files, where in the history of it we find, for example, from 1917 to 1930 no returns. Then, they come in together. This seems to be a Toronto club. Then, in 1930 we find all the officers [illegible].

THE CHAIRMAN: Wait a minute. I cannot write quite as quickly as you talk.

[illegible] on January 24, 1917.

A. 1917, my lord.

MR. [illegible]: I think the letters account [illegible] January 24, 1917.

Q. Mr. Gainey, is that correct?

A. That is correct.

Q. [illegible]

A. December 24.

THE CHAIRMAN: Then, the order is wrong.

MR. ESTEY: Yes, the police would appear to have the wrong date.

THE COMMISSIONER: Incorporated, then, what date?

A. December 24, 1946, my lord.

Q. All right.

Now, then we were paying some attention to the returns?

MR. ESTEY: Yes.

Mr. Commissioner, in the period 1947 to 1950 inclusive there is a gap in the returns. They were filed in 1954.

THE COMMISSIONER: When in 1954?

MR. ESTEY: January the 29th, 1954.

THE COMMISSIONER: January 29, 1954, the returns for -- ?

MR. ESTEY: 1951, 1952 and 1953.

Q. Is that correct, Mr. Cudney?

A. The returns from -- No, I am sorry. On February, 1951, the returns were filed from incorporation to date - that is, from 1946 to 1950. They were filed in '51. And, then, in 1954, January, 1954 -- No. The 1951 return was filed in '54; the '52 return was filed in '53; the '53 in '53.

THE COMMISSIONER: Your information must be wrong, Mr. Estey.

MR. ESTEY: Q. Are we correct in the fact the 1947 to 1950 years were filed at one time?

Mr. [illegible]: Yes, the police would assume to have the wrong date.

THE COMMISSIONER: Incorporated, then, what date?

A. [illegible] Mr. [illegible] Jan.

Q. All right.

Now, then we were [illegible] some attention to the returns?

Mr. [illegible]: Yes.

Mr. Commissioner, in the period 1917 to 1950 inclusive there is a gap in the returns. Why was this in [illegible]?

THE [illegible]: [illegible] 1920?

Mr. [illegible]: [illegible] 1920.

THE COMMISSIONER: January 20, 1924, the [illegible] -- ?

Mr. [illegible]: 1921, 1922 and 1923.

Q. Do [illegible] Mr. [illegible]

A. [illegible] the returns from -- No, I am [illegible]. On February, 1921, the returns were filed from incorporation to date - that is, from [illegible] to date. [illegible] filed in '21. [illegible] then, in 1924, January, 1924 -- No. The 1921 return was filed in '24; the '22 return was filed in '23; the '23 in '23.

THE [illegible]: [illegible] Mr. [illegible].

Mr. [illegible]: Q. Are we correct in the fact the 1917 to 1920 years were filed at one time?

A. Just pardon me, sir. The '51, '52 and '53 were all filed in '54.

THE COMMISSIONER: Wait a minute, let me take command for a minute.

Q. The company was incorporated in December, 1946?

A. Yes.

Q. We are all agreed on that?

A. Yes.

Q. Are we agreed on this, that the returns for 1947 to 1950 inclusive were filed in 1950?

A. 1951.

Q. In 1951. Just a moment. Then, when were the returns for 1951 to '53 filed?

A. In 1954, my lord.

Q. Just a moment.

I have that now, thank you.

MR. ESTEY: Q. Now, Mr. Cudney, the returns indicate, I believe, that the applicants -- the original applicants carried on throughout the period ending in 1959. They all resigned on the 8th of September, 1959.

THE COMMISSIONER: Q. Do you agree?

A. I just have to check the file, my lord. Well, there were a number of original applicants.

MR. ESTEY: Q. Well, the officers.

A. The officers, yes. They continue

A. Yes, [illegible] sir. The '31, '32 and '33 were all filed in '34.

THE CHAIRMAN: Wait a minute. Let me take command for a minute.

Q. The [illegible] in [illegible], Mr?

A. Yes.

Q. Is are all agreed on that?

A. Yes.

Q. Are we agreed on 1931, that the returns for 1927 to 1930 inclusive were filed in 1930?

A. 1931.

Q. In 1931. Just a moment. Then, when were the returns for 1931 to '33 filed?

A. In 1934, my lord.

Q. Just a moment.

I have that now, thank you.

Mr. [illegible]: Q. [illegible] returns indeed, I believe, that the assessments -- the original assessments carried on throughout the period ending in 1934. They all [illegible] [illegible] of [illegible].

THE CHAIRMAN: Q. Do you agree?

A. I have to check the file, my lord. [illegible] [illegible] [illegible].

Mr. [illegible]: Q. Well, [illegible].

A. The officers, yes. They [illegible]

pretty much -- Let me see. Yes, until -- Yes, till '59, my lord. That is true.

THE COMMISSIONER: Then, something happened in 1959.

MR. ESTEY: All the officers resigned.

THE COMMISSIONER: On what date?

MR. ESTEY: September the 8th,1959.

THE COMMISSIONER: Yes.

A. September 8th, 1959; yes.

MR. ESTEY: Q. So, at that stage, Mr. Cudney, without looking into your secret file for the moment, one would suspect the charter changed hands at that time?

THE COMMISSIONER: Not necessarily. All I know of the story up to the minute is in September, 1958 (sic), all the officers who were then in office and had been in office continually since the inception, resigned. All right. Were they succeeded by some other people?

BB/2

MR. ESTEY: They were.

THE COMMISSIONER: When?

MR. ESTEY: The new slate of officers are shown asbeing elected on January the 8th, 1960; but they must have been elected on the 8th of September, 1959.

THE COMMISSIONER: That does not necessarily follow, that the membership had changed.

pretty much -- Let me see. Yes, until -- Yes, until 1924, do I know. That is true.

THE CHAIRMAN: Then, remaining [illegible] in 1924.

Mr. HUNT: All the officers resigned.

THE CHAIRMAN: On what date?

Mr. HUNT: September the 5th, 1923.

THE CHAIRMAN: Yes.

Q. [illegible] 1923? [illegible]

Mr. HUNT: Q. So, at that stage, Mr. [illegible], although [illegible] for the moment, one would suspect the character changed hands at that time?

THE CHAIRMAN: Not necessarily. All I know of the story up to the minutes is in September, 1923 (sic), all the officers who were then in office and had been in office [illegible], resigned. All right. Were they succeeded by some other [illegible]?

Mr. HUNT: They were.

THE CHAIRMAN: [illegible]

Mr. HUNT: The new slate of officers are shown as being elected on January the 8th, 1920; but they must have been elected on the 8th of September, 1923.

THE CHAIRMAN: That does not necessarily follow, that the membership has [illegible].

MR. ESTEY: Not necessarily but suspected, my lord.

THE COMMISSIONER: I do not know that it could even be suspected.

MR. ESTEY: Very well. We will carry on with the file.

Q. The next thing of interest in the file, Mr. Cudney, is that you received a report from Inspector Walker to Chief Mackey, which reached you some time around the 4th November, 1960.

A. November 18, 1960. Walker's report is November 4, 1960.

Q. I think it is a rather lengthy report. Do you see mention of the fact that Sam Kertzer resigned in August, 1959?

A. Yes, Sam Kertzer resigned in August, 1959.

THE COMMISSIONER: Q. He was --

A. He was one of the originals, my lord.

Q. Then, it is not quite correct to say they all resigned on September the 8th?

A. The report states he resigned about August, 1959.

Q. All right. Kertzer?

A. Samuel Kertzer, K-e-r-t-z-e-r.

MR. ESTEY: Q. Would you read that paragraph, please, Mr. Cudney?

MR. KUNEY: Not necessarily but suspected, or [illegible].

THE COMMISSIONER: I do not know that it would even be [illegible].

MR. KUNEY: Very well. We will [illegible] [illegible] file.

Q. The next thing of interest in the file, Mr. Gadney, is that you received a report from [illegible] dated 1st [illegible], [illegible] [illegible] [illegible] [illegible] 1966.

A. November 18, 1966. Walker's report is November 4, 1966.

Q. I think it is a rather lengthy report. Do you see mention of the fact that Sam Kerkner resigned in August, 1966?

A. Yes, Sam Kerkner resigned in August, 1966.

THE COMMISSIONER: Q. He was --

A. He was one of the originals, my lord.

Q. Then, it is not quite correct to say they all resigned on September the 8th?

A. The report states he resigned [illegible] [illegible], 1966.

Q. All right. [illegible]

A. [illegible]

MR. KUNEY: Q. Would you read [illegible] [illegible], please, Mr. [illegible]

A. "Samuel Kertzer stated that "he resigned as an officer of the "club about August, 1959. He gives "the following men as being present "at this resignation: Harold Kertzer, "Morris Kertzer and a man by the name "of Lipton, and four other men who "took the charter over; he did not "know the names of these men. His "original intention, when he took "over the charter, was to apply for "a Liquor Licence. He states the "club did not operate in the past "few years immediately preceding the "transfer."

THE COMMISSIONER: Q. Read that again. And you do not need to copy it down, Mr. Reporter, you have it already.

---The witness reads the previous quotation.

MR. ESTEY: Q. Now, to dispose of this club: The report of the officer goes on to list seven or eight of the original members or petitioners and all of them informed you they were never a member and were never on the premises. That is correct, isn't it, Mr. Cudney?

A. That is Morris Hecker stated he did not.

Q. I see. When you received this

A. [illegible]

"he resigned as an officer of the

"[illegible] Lodge. In [illegible]

"the following men as being present

[illegible]

"Morris Kertzer and a man by the name

"of [illegible], and [illegible]

"[illegible]

"[illegible] the names of these men.

"[illegible]

"over the counter, was to apply for

"a Lodge Dispensation. In [illegible]

"club did not operate in the past

"[illegible]

"transfer."

[illegible] A. [illegible]

And you do not need to copy it down,

Mr. Reporter, you have it already.

—[illegible]

MR. BERRY: Q. Now, Brother of this club: The report of the officer goes on to line seven or eight of the original members or petitioners and all of them informed you they were never a member and were never on the premises. That is correct, isn't it, Mr. Gainey?

A. That is Morris Hockenstated he did not.

Q. I see. When you received this

report you sent out a notice and the club did not ask for a hearing and you cancelled the charter?

A. There had been a conviction in this case. Yes, I sent out the notice and the charter was cancelled.

THE COMMISSIONER: Q. You sent a notice out saying the charter would be cancelled on what grounds?

A. On the basis of the club --

". . . your club was convicted of
"keeping a common gaming house
"situate and known as 280 Yonge
"Street, Toronto,. . . ."

And the charter would be cancelled on that ground in one week's time.

Q. This is the first I have heard of the conviction. Mr. Estey suggested to you as soon as you heard of the report -- Oh, I beg your pardon. Was there something in the report about the conviction?

MR. ESTEY: I think there is. I think I can find it quite quickly.

". . . the charges against the four
"accused men were withdrawn at the
"request of the Crown Attorney and
"a plea of guilty entered on behalf
"of the Sorauren Club by the club's
"solicitors, . . ."

report you sent out a notice and the club did not ask for a hearing and you cancelled the charter?

A. There had been a convictor in this city. Yes, I did. [illegible] [illegible] and [illegible].

THE CONTRIBUTOR: Q. You sent a notice out saying the charter would be cancelled on that ground?

A. On the basis of the club --

". . . your club was convicted of

"[illegible] a [illegible] [illegible]

"[illegible] [illegible] [illegible]

"[illegible] [illegible] . . ."

And the charter would be cancelled on that ground in your usual [illegible].

A. [illegible] I have [illegible] of the conviction. Mr. Bailey suggested to you as soon as you heard of the report -- oh, I beg your pardon. Was there something in the report [illegible]?

Mr. [illegible]: I [illegible] it. I [illegible] can find it quite quickly.

". . . the charges against the four

"accused men were withdrawn at the

"request of the Crown Attorney and

"a plea of guilty entered on behalf

"of the Sonnenen Club by the clerk

"[illegible]. . . ."

THE COMMISSIONER: I see.

A. Convicted on October 21, 1960.

MR. ESTEY: A fine of $200.

Q. Finally, on this branch of the inquiry, Mr. Cudney, the Porcupine Social Club.

THE COMMISSIONER: Just a moment.

So I may just have some conception, Mr. Estey, of what you are trying to make out in bringing out this evidence with respect to the Sorauren Club, is it that the club changed hands? Is that what you have in mind?

MR. ESTEY: Yes, Mr. Commissioner. There is a fixed pattern running through all these clubs. The clubs fall into disuse, they become dormant, they do not file returns; suddenly, a wave of returns come in, a new band takes over, the police file a report, the report gives all this in detail, as to how a transfer was effected - sometimes we get the purchase price of the club, sometimes we do not; in the Sorauren there was no mention of any consideration - and the police watch it more thoroughly and the police convict it, or someone, for gambling; and this pattern repeats and repeats. In the case of the Sorauren Club the arrears are not as dramatic but my submission will be that all these could have been cancelled for forfeiture rather

THE CROSS-EXAMINATION: I see.

A. Convicted on October 21, 1950.

MR. KEFFOY: A fine of $200.

Q. Finally, on this branch of the inquiry, Mr. Keane, the Parkhill Hotel.

Yes.

THE CHAIRMAN: Just a minute.

So I may just have some conception, Mr. Keffoy, of what you are trying to make out in bringing out this evidence with respect to the Sorensen Gang, is it that the gang changed hands? In that what was you have in mind?

Mr. KEFFOY: Yes, sir. Exactly. There is a fixed pattern running through all these cases. The gang will stay intact, they become dormant, they do not file returns; suddenly, a wave of returns come in, a new hand takes over; the police file a report, the report gives all this in detail, as to how a transfer was effected - sometimes we get the purchase price of the gang, sometimes we do not; in the Sorensen Gang was no mention of any consideration - and the police watch it more thoroughly and the police convict it, or someone, for gambling; and this pattern repeats and repeats. In the case of the Sorensen Gang the arrests are not as dramatic but my submission will be that all these could have been cancelled for fortuitous reasons

than playing it out to the end when there is a conviction for gambling.

THE COMMISSIONER: The returns subsequent to 1954, I understood they were made regularly year after year - that is, none of them came in in a bundle. We have two bundles; one in 1951 and one in 1954, but thereafter the returns came in regularly.

A. Yes, they did.

MR. ESTEY: They came in the same calendar year.

THE COMMISSIONER: Q. They came in --

A. Year by year, yes, my lord.

MR. ESTEY: Q. There is certainly no suggestion that they had not come in before June the 30th. You would almost be suspicious if you found them filed before June the 30th?

A. We get quite a few before June the 30th and a number later.

THE COMMISSIONER: Q. Is that all about Sorauren?

MR. ESTEY: That is all about Sorauren, Mr. Commissioner.

Q. Very briefly, now, the Porcupine Social Club. That has been touched upon and also is referred to in the Hamilton police report which was filed with the Commission.

In the brief it is Appendix --

MR. WILSON:, J 5, 6, 20.

then placing it out to the end when there is a [illegible] [illegible].

[illegible]: The [illegible] [illegible] to 1924, I understood they were made regularly year after year - that is, none of them came in in a bundle. We have two bundles; one in 1921 and one in 1924, but whenever the [illegible] came in regularly.

A. Yes, [illegible].

Q. [illegible] Then one in [illegible] [illegible].

THE COMMISSIONER: Q. They came in --

A. Year by year, yes, my lord.

MR. MATHY: Q. There is certainly no suggestion that they had not come in before June the 30th. You would almost be simplicity if you found when filed before June the 30th:

A. We got quite a few before June [illegible] [illegible].

THE COMMISSIONER: Q. In that all about [illegible].

MR. MATHY: That is all about [illegible], Mr. Commissioner.

A. Yes [illegible], yes, the [illegible] Social Club. That has been [illegible] and also is referred to in the Hamilton Police report which was filed with the Commission.

In the brief it is [illegible] --

MR. [illegible]: [illegible] [illegible].

THE COMMISSIONER: You do not know what page in the brief?

MR. WILSON: I do not think it is in the brief. I think it is just J 5, 6, 20.

MR. ESTEY: No, that is right.

Q. Mr. Cudney, this is not unlike the Tisdale Club pattern, the northern club moving south?

A. Yes.

Q. And being mixed up with gambling. Incorporated back in 1924. This one, its objects, according to my notes, to better social conditions in the Town of Timmins.

A. That is correct.

3/3

Q. Then, this one seems to have -- I am not sure of these years. There seems to be a wave of annual returns. I am not sure. Perhaps you could tell me, during the 30's did they all come in at the one time, 22, 32, 33, and so on, to 39? I think you will find --

A. Yes, there were a number filed in '32.

Q. All right.

THE COMMISSIONER: Q. Just tell me about them. What years?

A. They incorporated, my lord, --

Q. 1924.

A. In 1929, and all the returns from incorporation to '32 all came in in 1932,

THE CHAIRMAN: You do not know what

[illegible] of the [illegible]

MR. WILSON: I do not think it is in the budget. I think it is just 5, 6, 20.

MR. HUNT: No, that is right.

Q. Mr. Croney, this is not within the Tisdale Club pattern, the northern club [illegible]

A. Yes.

Q. [illegible] [illegible] [illegible] [illegible]. Incorporated back in 1924. This one, its objects, according to my notes, to better social conditions in the Town of Tisdale.

A. That is correct.

Q. Then, this one seems to have -- I am not sure of these years. There seems to be a wave of annual returns. I am not sure. Perhaps you could tell me, during the 20's did they all come in at the one time, 26, 27, 28, and so on, to 29? I think you will find --

A. Yes, there were a number filed in '22.

Q. All right.

THE COMMISSIONER: Q. Just tell me [illegible] [illegible]

A. They incorporated, my lord, --

Q. [illegible]

A. In 1929, and all the returns from incorporation to '32 all came in in 1929.

my lord.

Q. All right.

MR. ESTEY: Q. Then, in 1954 did you receive five annual returns, and I think on most of them, if not all of them, is there a notation of no operations?

A. In 1954, you say, Mr. Estey?

Q. March 22, 1954, for the years '44, '45 --

THE COMMISSIONER: What happened from '32 to '44?

MR. ESTEY: They seem to be in order, Mr. Commissioner.

THE COMMISSIONER: All right.

Then, what happened with respect to the returns in 1944?

MR. ESTEY: Q. Mr. Cudney, my records indicate, for some strange reason, there are gaps in the 40's and they are all picked up in a filing made on the 22nd of March, 1954.

A. March 22.

Q. '54?

A. '54.

Q. And they pick up the returns for '44, '45, '48, '49 and '50?

A. Yes, on March 22, 1954, they enclose '44, '45, '48, '49 and '50.

Q. On April the 7th, 1955, you received a letter from the club, or its

my lord.

Q. All right.

MR. BERRY: Q. Then, in 1944 did you receive live animal returns, and I think on most of them, if not all of them, is there a notation of no operations?

A. In 1944, you say, Mr. Berry?

Q. Years 44, 1943, the six years '41, '42 --

THE COMMISSIONER: What happened from '39 to 1941?

MR. BERRY: They seem to be in order, Mr. Commissioner.

THE COMMISSIONER: All right.

Then, and supplied info. [illegible] to the returns in 1944.

MR. BERRY: Q. Mr. Graham, my records indicate, for some strange reason, there are gaps in the 40's and they are all picked up in a filing made on the 22nd of March, 1954.

A. March 22.

Q. 1954

A. 1954.

Q. And they pick up the returns for '44, '45, '46, '49 and '50?

A. Yes, on March 22, 1954, they produce '44, '45, '46, '49 and '50.

Q. In April the 7th, 1954, [illegible]

representatives, informing you the club was re-opening its operations at that time. Was there any application for revival made at that time, Mr. Cudney?

A. No, there doesn't appear to be.

Q. Then, you have a letter from the Provincial Police in February, 1958, reporting convictions and recommending cancellation.

That is February the 14th, 1958.

THE COMMISSIONER: What police?

MR. ESTEY: Ontario Provincial Police, Mr. Commissioner.

A. There is a letter of February 19th, 1958; that would be the one.

Q. It might be my writing is not very clear.

A. Yes.

THE COMMISSIONER: Q. Report from the O.P.P. of convictions of whom?

A. It's just a short letter, my lord. May I read it?

Q. Yes.

A. It is from Sergeant J.M. Anderson, addressed to myself:

" As this Charter was being used "in the City of Hamilton in connection "with premises suspected of being a "Common Gaming House, I felt that it "would assist the Crown if it could be

representative, informing you the club was re-opening its operations at that time. Was there any application for revival made at that time, Mr. Gadney?

A. No, [illegible]

Q. Then, you have a letter from the Provincial Police in [illegible], 1950, [illegible] convictions and recommending cancellation.

What is February the 14th, 1950?

[illegible]

A. [illegible] Provincial Police, Mr. Commissioner.

A. There is a letter of February 14th, 1950; that would be the one.

Q. It might be my mistake, is not that also.

A. [illegible]

THE COMMISSIONER: Q. Report from the G.P.P. of convictions of what?

A. It's just a short letter, my lord. May I read it?

A. Yes.

A. It is from Sergeant J.M. Anderson, addressed to Morelli:

" As this Director was being made "in the City of Hamilton in connection "with premises suspected of being a "Common Gaming House, I felt that it "would satisfy the crown if it could be

"proven that the said Club was not
"a bona fide Branch of the Parent
"Club in Timmins. However, from
"the evidence submitted to the
"Court, Magistrate B. Hopkins
"registered a conviction against
"three accused charged under Section
"176(1) of the Criminal Code and each
"was sentenced to a gaol term.
" A memorandum will be forwarded
"to Mr. K.V. McNeill, Commissioner
"of Police for Ontario, informing him
"of the results so that a request
"for cancellation of said Charter
"can be made . . . "

Q. Three persons convicted at what was said to be a branch of the club in Hamilton?

A. Yes. I had been in correspondence with Sergeant Anderson on this previous to this, my lord. This was in reply to a letter which I have on inquiry. Perhaps he had -- I forget whether he started it or I did.

MR. ESTEY: Q. In any event he observed that the club was operating in Hamilton. The charter limits it to Timmins?

A. To Timmins.

Q. You received that in February, 1958, and what action did you take with respect to that report?

"[illegible] the well-known [illegible]
"a bona fide member of this branch
"club in Hamilton. However, [illegible]
"the evidence submitted to the
"Commissioner by Counsel
"[illegible] contradicts [illegible]
"[illegible] [illegible]
"17c(1) of the Criminal Code and was
"was convinced to a real [illegible].
" A memorandum will be forwarded
"to Mr. E.V. Mitchell, Commissioner
"of Police for Ontario, informing him
"of the results so that a request
"for [illegible] of [illegible]
"can be made . . . "

Q. Those persons mentioned by you
was said to be a branch of the club in Hamilton?

A. Yes. I have [illegible]
when Georgeous Amoroson on this previous b[illegible]
this, my Lord. This was in reply to a letter
which I have on inquiry. Perhaps he had --
I forget whether he stated it or I did.

Mr. Smith: Q. In any event he observed
that the club was operating in Hamilton. Is
character limits it to Hamilton?

A. Yes Sir.

Q. You received that by [illegible],
Lord, and what action did you take with respect
to that report?

A. I asked Sergeant Anderson to give me a certified copy of the conviction, which we always require. He replied giving me -- No, he said an appeal against the conviction had been entered. Then, we had -- Pardon me, that was in March 6, 1958, that he advised me of the appeal. Then, I wrote to the club. The next is on September 26, 1958. I said:

" It has been brought to our "attention that your Club is operating "a branch in the City of Hamilton. "The objects of your Club read as "follows: 'To better the social "conditions in the said Town of "Timmins'".

Q. What is the date of that?

A. September 26, 1958. I go on to say:

" It is difficult to see how "the operation of a branch in "Hamilton would better social con- "ditions in the Town of Timmins. "Accordingly, it appears that you "have contravened the provisions "of your charter and I would advise "that unless your Hamilton branch "is discontinued immediately, an "Order will be issued under Section 325(1)

A. I asked Sergeant Anderson to give me a certified copy of the conviction, which we always require. He replied giving me -- No, he said an appeal against the conviction had been entered. Then, we had -- pardon me, that was in March 6, 1956, that he advised me of the appeal. Then, I move to the club. The next is on September 26, 1956. I said:

" It has been brought to our attention that your Club is operating a [illegible] in the City of [illegible]. The [illegible] of your Club read as follows: 'To better the social conditions in the said Town of [illegible]'.

Q. What is the date of that?

A. September 26, 1956. I go on to say:

" It is difficult to see how the operation of a branch in [illegible] Saint Lawrence [illegible] affiliate with Saint Lawrence [illegible] affiliations in the Town of Timmins. Accordingly, it appears that you have contravened the provisions of your charter and I would advise [illegible] the [illegible] immediately.

"Order will be issued under Section 3[illegible]( )

"of The Corporations Act, 1953 to "cancel the Letters Patent of your "Club for cause."

Q. And they closed the branch down?

A. Apparently the branch was --

Q. I think you have a letter to the effect that they were discontinuing the Hamilton branch?

A. Yes.

Q. September the 10th, 1957(sic).

A. December the 10th, 1957?

Q. A letter on your O file of that date, saying the letter from the parent branch to the Hamilton branch --

A. I wrote the club on September 26th, 1958, and this letter, you say is December the 7th (sic)?

Q. I am asking you: My notes indicate you have a letter there, in any event, which cancels the charter?

A. Yes, the charter was cancelled. We had a further police report on December 1, 1958 -- No. All right. Advising of a conviction of John Simon and two other people of keeping a common gaming house in Hamilton, being the premises of the corporation; and I advised the charter would be cancelled.

THE COMMISSIONER: Q. In September -- On September 26th, 1958, you notified the club

"Cancel the letters records of your "Club for orange."

Q. And they closed the branch down?

A. Successfully for several yrs. —

Q. I think you have a letter to the street that long ago discontinuing the Hamilton Country?

A. Yes.

A. Remember the time, Nov(ember).

A. Remember the time, 1927.

Q. A letter to your (Club of) the days, saying the letter from the parent branch to the Hamilton branch —

A. I wrote the club on September 20th, 1926, and this letter, you say is dated the (sic)?

Q. I am asking you. My notes indicate you have a letter there, in any event, which usually has survey.

A. Yes, you [illegible].

He had a further police report on December 1, 1926 -- No. All right. Advising of a conviction of John Simon and two other people of keeping a common gaming house in Hamilton, being the premises of the convention; and I advised the chief work be cancelled.

THE COMMISSIONER: Q. In September — in September 20th, 1926, [illegible]

that unless it closed up its branch in Hamilton that the charter would be cancelled?

A. That is right, my lord.

Q. What was the next thing that happened?

A. Then, I wrote to the Chief of Police on September 26th, 1958, in Hamilton:

" It has been brought to our "attention the club has contacted . . ."

Q. All right, you wrote the Chief of Police. What was the next thing that happened so far as the club is concerned? What it did or did not do? Did it close the branch up?

A. There is no indication on the file here, my lord. The next thing on the file is a letter, November 13, 1958, from Commissioner Clark, advising of a conviction on the club premises.

BB/4

Q. A conviction of what date?

A. A conviction on February 17, '58.

Q. February 17?

A. I am sorry. On February -- The conviction was on February 17, '58.

Q. That is the one we have heard about, the three amused?

A. What I recall, my lord, from the file here -- I mean, as I say, the letter saying if they did not close their branch the

that unless it closed up its branch in
Hamilton that the charter would be cancelled?

Q. Does it exist up here.

A. Have you not read during your
[illegible]?

A. Then, I wrote to the Chief of
Police in [illegible], [illegible], in [illegible]:

" It has been brought to our
attention the club has commenced . . ."

Q. All right, you wrote the Chief
of Police. What was the next thing that
happened so far as the club is concerned?
What it did or did not do? Did it close the
[illegible]?

A. There is no indication on the file
here, my Lord. The next thing on the file
is a letter, [illegible], [illegible] from [illegible]
Clark, enclosing of a conviction on the club
[illegible].

Q. A conviction of what order?

A. A conviction on February 17, 1923.

Q. [illegible]

A. I am sorry. On February --
The conviction was on February 17, 1923.

Q. That is the one we have heard
about, the [illegible]?

A. What I recall, my Lord, from the
file here -- I mean, as I say, the letter
[illegible]

charter would be cancelled, and, then, there is a letter from Commissioner Clark in November, '58 - that was some two months later.

Q. Nine months later.

A. It was September, '58, I wrote them telling them to close.

Q. The conviction was back in February?

A. Yes. Yes, that is right.

Q. And this was in November you are being told about that?

A. Yes, but apparently it was taken under appeal, according to Sergeant Anderson.

Q. I quite understand that.

A. Yes.

Q. It was appealed in March?

A. Yes.

Q. And I suppose it would be disposed of before the summer vacation?

A. Yes; yes.

Q. That would bring us up to the end of June?

A. Yes.

MR. ESTEY: Q. The cancellation was in January, 1959?

A. The cancellation was --

Q. January, '59.

A. The cancellation was in January 8, '59.

Q. So that regardless of the detail

character would be [illegible], [illegible], [illegible], there is a letter from [illegible] in [illegible], '39 - that was some two months later.

Q. [illegible]?

A. It was September, '39, I wrote them telling them to close.

Q. The convictor weekend in Germany?

A. Yes. Yes, that is right.

Q. And this was in November you are being told about that?

A. Yes, but apparently it was taken [illegible], [illegible] in [illegible].

Q. I quite acknowledged that.

A. Yes.

Q. It was [illegible]?

A. Yes.

Q. And I suppose it would be disposed of before the summer vacation?

A. Yes; yes.

Q. That would bring us up to the end of June?

A. Yes.

MR. MERRY: Q. The cancellation was in January, 1939?

A. The cancellation was --

Q. January, '39.

A. The cancellation was in January.

[illegible].

Q. So that regardless of the [illegible]

of it you had notice from the police on the 19th of February, 1958, and cancellation was in January, 1959. I notice in the Hamilton police brief filed with the Royal Commission --

THE COMMISSIONER: Just a moment.

Q. I am trying to follow you on the dates. Let us go backwards. Cancellation on January 8, 1959. On what ground?

A. On the grounds of --

MR. ESTEY: Q. Violation of letters patent, according to Appendix J, Mr. Cudney.

A. Well, my letter to the club --

THE COMMISSIONER: No.

A. I would say it is on the basis of the conviction and also on the basis -- But, in my letter to the club I merely mention the conviction. It could also be on the basis of violation but I am merely going by my letter to the club on December 1st, the letter of cancellation. I referred to the conviction and said on that basis we would cancel the letters patent.

THE COMMISSIONER: Mr. Estey, you said they could have cancelled before, on what grounds?

MR. ESTEY: Well, there seems to me to be three grounds: One, forfeiture; two, violation of the express terms of the letters patent; and, three, convictions.

of -- you see I mean from the public at the
16th of February, 1959, and cancellation was
in January, 1959. I notice in the Hamilton
police that file [illegible] Chairman --

THE CHAIRMAN: Five o'clock.

Q. I am trying to follow you on the
dates. Let me go backwards. Cancellation
on January 8, 1959. On what ground?

A. [illegible]

MR. HUNT: Q. Violation of labour
matters, according to [illegible], Crown,

A. Well, my letter to the club --

THE CHAIRMAN: Yes.

A. I would say it is on the basis
of the conviction and also on the basis --
but, in my letter to the club I merely mention
the conviction. It could also be on the
basis of violation but I am merely going by
my letter to the club on December 1st, the
letter of cancellation. I referred to
the convictions and said on that basis we
were [illegible] the licence [illegible].

THE CHAIRMAN: Mr. Hunt, you said
they could have cancelled before, on what
grounds?

MR. HUNT: Well, there seems to me to
be [illegible] Certainly the
violation of the express terms of the licence
[illegible].

Q. I notice, Mr. Cudney, on your last document, which I have noted is a letter of 18th December, 1958, this is right on the eve of cancellation, you wrote a letter to the club solicitor informing him of the cancellation and you gave the reason. The reason you say is that they had no authority, in the first instance, to operate a branch in Hamilton.

A. Yes.

Q. And in Appendix J you say violation of letters patent. That was really the reason for the cancellation.

A. I would say it was a combination of three grounds.

THE COMMISSIONER: Q. There is a conflict that stands out, I think. It is a fact they opened a branch in Hamilton?

A. Yes.

Q. But in September you notified them if they did not close the branch up the charter would be cancelled?

A. Yes.

Q. Yes?

A. Yes.

Q. In other words, in September you were not saying to them, "Now, you opened a branch; therefore, I am cancelling the charter?"

A. No.

A. I notice, Mr. Tolman, in your last document, which I have noted is a letter of 16th December, 1943, this is right on the eve of cancellation, you wrote a letter to the club association informing him of the cancellation and you gave the reason. The reason you say is that they had no authority, in the first instance, to operate a branch in Montilion.

A. Yes.

Q. And in Appendix 4 you say violation of letters patent. That was really the reason for the cancellation.

A. I would say it was a combination of three grounds.

Q. [illegible] 4. Does it not conflict this stands out, I think. It is a fact they opened a branch in Montilion?

A. Yes.

Q. But in September you modified that if they did not close the branch up the charter would be cancelled?

A. Yes.

Q. Yes?

A. Yes.

Q. In other words, in September you were not saying to them, "Now, you opened a branch; therefore, I am cancelling the charter"?

A. No.

Q. No. As of the date when you told them you would cancel the charter unless they moved there was a record of a conviction?

A. There was -- Yes. Yes.

Q. And in December you notified them that the charter would be cancelled on two grounds: One, a conviction and the other violation of the terms of the charter?

A. No. In my letter of December the 1st to the club, my cancellation letter, my lord, I referred merely to the conviction.

Q. Well, that would be consistent with what you were saying in September?

A. Yes.

Q. In other words, you are saying in September, "I am not going to cancel your charter because you opened the branch, provided you close it up"?

A. Yes.

Q. In December you are saying, "Now, I am going to cancel your charter because of the conviction"?

A. Yes.

Q. Well, that is consistent.

A. Yes. I would say, my lord, the reason in September, although there were some others, two or three others, that had branches at that time where we asked them to close, but I would say why we did not cancel it in

Q. No. As of the date when you gave your notice to cancel your membership, they moved there was a record of a convictions?

A. There was -- Yes. Yes.

Q. And in spite of getting that notice from the counsel could be prosecuted on the charges, was, a conviction for the first violation of the terms of the charter?

A. No. In my letter of December the 1st to the club, my cancellation letter, my last, I referred merely to the convictions.

Q. Well, that would be contradicts with what you were saying in September?

A. Yes.

Q. In other words, you are saying in September, "I am not going to cancel your membership" [illegible] "I'll [illegible] you close it up"?

A. Yes.

Q. In December you are saying, "Well, I am going to cancel your membership because of the convictions"?

A. Yes.

Q. Well, that is contradicts.

A. Yes. I would say, my lord, the reason in September, although there were some absence, two or three others, that had accounts at that time where we asked them to close, but I would say why we did not cancel it in

September, because there was a conviction -- on the conviction because it was under appeal.

Q. You do not know whether the appeal had been disposed of by September?

A. No; no, I don't.

MR. ESTEY: Q. Mr. Cudney, the Hamilton police have filed a report with the Royal Commission on this and in the report they say:

" Information obtained from "this investigation statements from "the above men along with the "police records of the operations, "employees and members were turned "over to the Provincial Secretary, "Solicitors Department."

I cannot find in the file any record of that. Is that so? They did advise you in 1958 of the Hamilton branch? It goes on to say the place was operating until September the 17th.

A. September 17, '58?

Q. '58. On this date Gasbarrini and Tony Loschiavo informed the police this club would cease operation. They list the members of the club in the Hamilton branch and the partners are said to be Daniel Gasbarrini, John Papalia, Sansone, and so on. I do not find that in your file.

A. No, I don't recall that and I

don't see anything on the file, Mr. Estey. There must have been some connection with the Hamilton police because I wrote to the Chief.

Q. You wrote to the Chief. I was going to ask you that. That being so, this club having no corporate power to operate except in Timmins, and faced with the serious police report of February 19, 1958, why was that club not cancelled out on the first notice of that violation of the letters patent?

A. Well, that I can't say. I don't recall, Mr. Estey. I do recall there were some others around that time. One we mentioned the other day was the Tisdale Club.

Q. Yes.

A. Where there had been a conviction in that case. I don't know whether there had been an infraction there of the letters patent. I don't think so. I don't think they were limited. And there was this other one, the Miner's Club.

BB/5

Q. Four illustrations of this branch operation. We have seen them. The West End Bridge, Tisdale, Porcupine and the Miner's.

A. Around about that time, in those years, I think it is '57 and '58, my lord, there was a policy developed that if the club -- if the branch got into difficulties the charter would be cancelled unless the branch

don't see anything on the file, Mr. Ruby.

Have you ever been connected with the Sunshine Quilting Company I know by the name?

Q. You wrote to the Order. I was going to ask you that. Just being so, this club having no corporate power to operate except in Kansas, and faced with the serious legal impact of Paragraph 7a, 7b, 7c, did the club not consulted out on the first notice of that violation of the Lessons program?

A. Well, that I can't say. I don't recall, Mr. Ruby. I do recall there were some others around that time. One we mentioned was also in the Las Vegas file.

Q. Yes.

A. There there had been a consultation in that case. I don't know whether there had been an interaction there of the Lessons program. I don't think so. I don't think any such policy. Jim Ryan was that person, the Minor's club.

Q. Your illustration of the Brown Association. It came from Ryan. The Bar and Lodge, Miami, Pueblo and the Minor's.

A. Around about that time, in those years, I think it is '57 and '58, my land, there was a policy developed where if the club -- if the Brown got into difficulties the charter would be cancelled unless the Brown

was discontinued. I see there is a note that I discussed, I think it is in the Tisdale one, with Mr. Dunbar; and apparently that policy was worked out at that time, and I think it was rather short-lived.

Q. Which policy is that?

A. The Tisdale.

Q. Yes. We did the Tisdale Club, did we not?

A. Yes.

THE COMMISSIONER: At least they treated them with uniformity.

MR. ESTEY: That, perhaps, in summary will not turn out to be the case. That is a matter of argument.

THE COMMISSIONER: I thought you said they were all cases of branches and in each of them the club was notified unless they closed the branch the charter would be cancelled?

MR. ESTEY: I do not know that that alternative was available in law.

THE COMMISSIONER: Yes, that is what the witness said he did.

MR. ESTEY: I say, legally, I do not think that alternative was open in this case because letters patent stated in the Town of Timmins.

A. I think this policy I mentioned was only followed from around 1957 and '58.

[illegible]

[illegible] disconsidered. I [illegible] that I discovered, I think it is in the Tiaudle [illegible]. Mr. [illegible] policy was worked out at that time, and I [illegible] at the [illegible] [illegible].

Q. Which policy is that?

A. The Tiaudle.

Q. Yes. So did the Tiaudle Club, did [illegible]?

A. Yes.

THE COMMISSIONER: My [illegible] [illegible] this [illegible].

Mr. [illegible]: [illegible], [illegible] will not turn out to be the case. There is a [illegible].

THE COMMISSIONER: I [illegible] they were all cases of [illegible] and in each of them the club was notified unless they closed the branch the character would be cancelled.

Mr. MOTHY: I do not know that that alternative was available in Jan.

THE COMMISSIONER: Yes, that is what [illegible] said in [illegible].

Mr. MOTHY: I say, legally, I do not think that alternative was open in this case because [illegible] patent stored in the room [illegible].

A. I [illegible] [illegible] [illegible] [illegible] [illegible].

There were three or four cases where this happened. It was a policy for a short time.

MR. ESTEY: Now, Mr. Commissioner, I would like to change to a different subject. A different method of organizing these files, and I think we should be able to move through these following files, which I have given to Mr. McCormack, very quickly.

The first one is the Atlas Club.

THE COMMISSIONER: Who is Mr. McCormack? Oh, Mr. Cudney's assistant.

Yes?

MR. ESTEY: The Atlas Club.

Q. Do you have that file in front of you?

A. Yes, I have it, Mr. Estey.

MR. WILSON: In the brief, 35.

THE COMMISSIONER: Are you dealing with one particular club now or a number all at the same time?

MR. ESTEY: No, I am going to deal with one at a time, but they all fit in one after the other.

THE COMMISSIONER: All right.

This is sort of a new branch?

MR. ESTEY: Yes. These have nothing in common with the movement of charters back and forth that I have just finished. In this particular branch I want to find out the mechanics

Shaw was asked to give some more well

happened. It was a policy for a short time.

Mr. Kerr: Mr. Commissioner, I would like to change to a different subject.

A different method of organizing these files, and I think we should be able to move through these following files, which I have given to Mr. [illegible], Vice [illegible].

The first one is the Aslan Club.

THE COMMISSIONER: Who is Mr. McDonnell? Mr. McDonnell's [illegible].

Yes.

Mr. Kerr: The Aslan Club.

Q. Do you have that file in front of you?

A. Yes, I have it, Mr. Kerr.

Mr. Wilson: In the brief, Sir.

THE COMMISSIONER: Are you dealing with one particular club now or a number all at the same time?

Mr. Kerr: No, I am going to deal with one at a time, but they all fit in one after the other.

THE COMMISSIONER: All right.

This is part of a new memory

Mr. Kerr: Yes. Those have nothing in common with the movement of observers that are from what I have just finished. In this particular person I want to find out the mechanics

of cancellation and the timing of cancellation.

Q. Mr. Cudney, on the Atlas Club, first of all, I notice the date of incorporation is 1935.

A. March 27, 1935.

Q. And in passing on, January the 13th, 1948, you received the returns for the early '1940's, 1942, 3 and 4.

A. Yes, we received returns for '42, '43 and '44 in January, 1948.

Q. The covering letters saying the files and books of the club were unknown and the last -- times and dates of the last annual meetings, etc., were also unknown. We find in this file the first police report, back in 1943, in your O file, on January 3, 1943.

THE COMMISSIONER: What police force?

MR. ESTEY: City of Toronto.

The letter is from Chief Constable D.C. Draper.

Q. That letter concludes, Mr. Cudney, I think your files will bear this out:

" I earnestly recommend that "the Charter now held by the Atlas "Club, 287 Spadina Avenue, be "cancelled . . ."

Signed D.C. Draper, Chief Constable. Is that right?

of cancellation and the status of cancellation.

Q. Mr. Cadney, on the Aztec Club, what of all, I mean the date of incorporation in 1922.

A. March 27, 1925.

Q. And in putting on, January 1st, 1926, 1946, you received the returns for the early 1940's, 1942, 3 and 4.

A. Yes, we received returns for 1941, '42 and '43 in January, 1944.

Q. The governing instrument covering the files and books of the club were unknown and the last -- times and dates of the last annual meetings, etc., were also unknown. We find in this file the first police record, back in 1943, in your O file, on January 3, 1943.

MR. MOTT: City of Sonoma.

The letter is from Chief Donnelly U.S. Navy.

Q. Just look at it, Mr. Cadney, I think your file will bear this out:

" I earnestly recommend that "the Charter now held by the Aztec "Club, 327 Spadina Avenue, be "cancelled . . . "

Signed U.S. Navy, Shore Patrol.

Is that right?

A. Yes. That is dated June the 3rd, 1943.

THE COMMISSIONER: Recommending cancellation for what reason?

MR. ESTEY: Gambling is being carried on in the premises. Frequented by gamblers and affords a hangout for criminals. There was a raid and the police arrested 18 and they convicted them May 31.

THE COMMISSIONER: All right.

June 3, 1943?

MR. ESTEY: Q. Then, following that the history of this --

A. Pardon me. Was there a conviction on that?

Q. My summary says they were convicted on May 31, presumably, '43. That is in the letter of Chief Draper.

A. Yes, you are right. Conviction.

Q. And the certificate comes in. Following the history through, you recommended to Mr.Blackwell, and this is August the 11th, 1944, you recommended cancellation.

THE COMMISSIONER: A year later?

MR. ESTEY: A year later.

A. The letter from Chief Draper was addressed to the Attorney-General; it was not addressed to the Department. Received at the Attorney-General's office July 28, 1944.

A. Yes. That is dated June 3rd, 1943.

THE CHAIRMAN: Proceeding accordingly. Yes, sorry.

MR. MOSKY: Gambling is being carried on in the premises. Frequented by gangsters and affords a hangout for criminals. There was a raid and the police arrested 16 and they convicted them May 31.

THE CHAIRMAN: All right.

Q. (Cont.)

MR. MOSKY: Q. Now, following this the history of this --

A. Proceeding. We have a complete on tempo

Q. My summary says they were convicted on May 31, presumably, '43. That is in the letter of Chief Keeper.

A. Yes, you are right. Convicted.

Q. Are you satisfied with A. Following the history through, you recommended to Mr. Blackwell, and this is August the 11th, 1944, you recommended cancellation.

THE CHAIRMAN: A year later?

MR. MOSKY: A year later.

A. The letter from Chief Keeper was addressed to the Attorney-General; it was not addressed to the Department. Received at the Attorney-General's office July 26, 1944.

And there is a letter on August 3, 1944.

Q. Just a minute. Just hold on a minute, Mr. Cudney. Does not your file show on June 16, 1943, a request for a certified copy of the conviction?

A. June?

Q. June, 1943.

A. June.

Q. It would indicate you had that police report in June of 1943, wouldn't it?

A. June 16, 1943, letter from the Deputy Minister, June 16, 1943, to D.C. Draper. Yes. "Please to receive." "I have your report of the 3rd". Yes, the Department had the report at that time.

THE COMMISSIONER: Q. That letter is dated what?

A. June 16, '43.

Q. Yes.

A. From Mr. Johns to Chief Draper.

MR. ESTEY: Q. Then, we have your recommendation of August 11, 1944, we have mentioned. You were of opinion the letters patent should be cancelled.

THE COMMISSIONER: August 11, 1944?

MR. ESTEY: Yes, Mr. Commissioner.

A. August 11, 1944.

Q. Then, there is a ten-year gap, isn't there, Mr. Cudney?

And there is a letter on August 3, 1944.

Q. Just a minute. Just hold on a minute, Mr. Gainey. Does not your file show on June 16, 1943, a request for a certified copy of the convictions?

A. Yes.

Q. Just.

A. Yes.

Q. It would indicate you had that [illegible]

A. June 16, 1943, letter from the [illegible] Yes. "Please to receive." "I have your report of the 3rd". Yes, the Department had the report at that time.

THE COMMISSIONER: Q. That letter is [illegible]?

A. June 16, '43.

Q. Yes.

A. From Mr. Jones to Order Number.

MR. MURRAY: Q. Then, we have your recommendation of August 11, 1944, we have mentioned. You were of opinion the letters [illegible].

THE COMMISSIONER: August 11, 1944?

MR. MURRAY: Yes, Mr. Commissioner.

A. August 11, 1944.

Q. Then, [illegible]

Isn't there, Mr. Gainey?

THE COMMISSIONER: Q. What happened to your recommendation?

A. This is August 11, 1944, a letter from myself to Mr. Blackwell:

" I refer to your memorandum "of the 3rd instant."

That must have been August 3, 1944. I review the situation.

" In the present instance, I "am of the opinion that the Letters "Patent should be cancelled by "Order-in-Council under subsection "1 of Section 30 of The Companies "Act in view of the information "obtained from the Police and the "conviction. I might add that, "personally, I am of the view that "clubcharters should be cancelled "where there is grounds to believe "that gambling is being carried on "although a conviction has not "been obtained. While it is "true that a charter does not "authorize a club to carry on business, "yet there would seem to be a "certain ~~[illegible]~~ sanction by the Department "when a club is operating under a "charter."

MR. ESTEY: Q. What happened as a

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THE COMMISSIONER: Q. Did you receive
a part memorandum?

A. This is August 11, 1944, a letter
from myself to Mr. Chambers:

" I refer to your memorandum
"of the 3rd instant."

That must have been August 3, 1944.

I review the situation.

To the second letter:

"am of the opinion that the Western
"Patent should be cancelled by
"Order-in-Council under Section
"1 of Section 20 of The Companies
"Act in view of the information
"obtained from the Police and the
"conviction. I might add that,
"personally, I am of the view that
"Slumbermere should be cancelled
"where there is grounds to believe
"that gambling is being carried on
"although a conviction has not
"been obtained. While it is
"true that a charter does not
"authorize a club to carry on business,
"yet there would seem to be a
"certain duty by the Department
"when a club is operating under a
"charter."

MR. [illegible]: Q. What happened as a

result of that exchange of letters, if anything?

A. There is an acknowledgement from Mr. Blackwell.

THE COMMISSIONER: Q. Dated?

A. August 3 -- I am sorry. No, that was before.

Q. You recommended cancellation on August the 11th?

A. On August 11, '44.

Q. All right, what did he do about it?

A. There is nothing -- Nothing happens until -- On the file, my lord, until '54. I can't say. I don't recall.

MR. ESTEY: Q. Then, in '54 you have a letter from Police Chief Chisholm to yourself, sending Inspector Walker's report. That letter to you is dated the 25th of August, 1954?

A. Yes.

Q. Which I might call the second police report.

A. Yes.

THE COMMISSIONER: What date?

MR. ESTEY: 25th of August, 1954.

Q. And the Chief of Police recommends cancellation again? In fact, he asks for cancellation?

A. Yes. I concur in the report of

result of that exchange of letters, if anything?

A. There is an acknowledgement from Mr. Hopewell.

THE COMMISSIONER: Q. Dated?

A. August 3 -- I am sorry. No, date was before.

Q. The acknowledgment contained an Aaron van Allen?

A. On August 11, '44.

Q. All right, what did he do about it?

A. There is nothing -- Nothing happens until -- on the file, my lord, until the -- I don't know. I don't recall.

MR. BERRY: Q. Then, in '54 you have a letter from Police Chief Chisholm to yourself, sending Inspector Walker's report. This letter to you is dated the 22nd of August, 1954?

A. Yes.

Q. When I might call the second while there.

A. Yes.

THE COMMISSIONER: What date.

MR. BERRY: [illegible] 1954.

Q. And the Chief of Police recommend cancellation again? In fact, he asks for authorization?

A. Yes. I concur in the recommendation

Chief Chisholm and concur in Inspector Walker's recommendation.

THE COMMISSIONER: Q. What did Walker say?

A. This is a report, my lord:

" In view of the foregoing "facts, I would strongly urge that "representations be made to the "Provincial Secretary requesting "the cancellation of the Provincial "Charter issued to the Atlas Club."

Q. On what grounds?

MR. ESTEY: I think it is criminal records of many of the members.

Q. Isn't it, Mr. Cudney?

A. Criminal records and, also, he gives a long list of persons frequenting the club. There must be twenty here with a number of convictions, records. A suspicion, generally, of illegal gaming.

Q. All right. Now, what action did you take as a result of receiving that memorandum -- that letter?

A. I apparently referred it to Mr. A.S. Kingsmill, who was a departmental solicitor at the time.

Q. After that you directed a hearing, did you not?

A. And, then, I wrote to the club

Order Ohanolm and owner in Inspector Malone's recommendation.

THE CONSTABLE: Q. What did Malone say?

A. This is a report, my lord:

" In view of the foregoing

"there should always exist

"representations be made to the

"Provincial Secretary requesting

"the cancellation of the Provincial

"Secretary issued to the Union Club."

Q. On what grounds?

MR. HUNTER: I think it is in criminal records of some of the members.

Q. Don't ly. Anyway?

A. Numerous reports had allegedly given a long list of persons frequenting the club. There must be twenty here with a number of convictions, records. A suspicion, generally, of illegal gaming.

Q. All right. Now, what action did you take as a result of receiving that information? — THE LORDSHIP

A. I apparently referred it to Mr. A.C. Kingsmill, who was a departmental solicitor at the time.

Q. After that you directed a meeting, did you not?

A. And, then, I wrote to the club

on November 16 and directed a hearing.

Q. Then, I think you reported to the police on January the 10th, 1955, did you not, as a result of the hearing and found it not advisable to take any steps to cancel at the present time?

A. Yes. I wrote to Inspector Walker on January 10, 1955:

"I refer to the hearing held "at this office recently relative "to the above Club.

" After careful consideration of "the evidence submitted it is not, "deemed advisable to take any steps "to cancel the Letters Patent of this "Club at the present time."

Q. Then, the third police report came in on the 16th March, 1962, I think. Inspector Kerr.

A. 16th March, 1962.

Q. He recommends cancellation.

A. 16th March, '62. Before that I had written to Chief Mackey from a newspaper clipping, noticing there had been a charge, and asking him to advise me if there was a conviction. That was on March 6. And, then, I got the report from the police on March 16.

Q. As a result of that police report, what action did you take?

on November 15 and directed a hearing.

Q. Then, I think you reported to the police on January the 10th, 1959, did you not, as a result of the hearing and found it not advisable to take any steps to cancel the premises licence?

A. Yes. I wrote to Inspector Walker on January 10, 1959:

" I refer to the hearing held
"at this office recently relative
"to the above Club.
" After careful consideration of
"the evidence submitted it is not,
"deemed advisable to take any steps
"to cancel the Licence Pertaining of this
"Club at the present time."

Q. Then, the next police report came in on the 16th March, 1959, I think.

Inspector Kerr.

A. 16th March, 1959.

Q. He recommends cancellation.

A. 16th March, '59. Before that I had written to Mr. Kerr (Security Firm) a considerable objection, noticing there had been a change, and asking him to advise me if there was a contradiction. This was on March 5. Then, then, I got the report from the police on March 16.

Q. As a result of that police report, that letter did you send

A. I wrote to the Provincial Secretary -- I am sorry. I am just following my memo. I wrote to the Minister on March 23 advising that we had this report from the police.

Q. And the Minister then directed you to proceed with the cancellation proceedings on all grounds disclosed by Chief Mackey on March 26, did he not?

A. Yes, on all grounds. Yes, on March 26, that is right.

Q. Then, can you tell us what happened after that?

A. Then, on March 27 I wrote to Acting Chief Kerr that I was writing the club adising that in view of the information contained in this report a letter would be sent advising the letters patent would be cancelled. Then, on March 27 I received a memorandum from -- I wrote a memorandum ~~mf~~ to Mr. Lavine, directing --

THE COMMISSIONER: Q. What date?

A. I wrote a memorandum --

Q. What date?

A. Oh. March 27, 1962. To Mr. Lavine, drawing his attention to the report and asking him to prepare a cancellation letter. On March 28, I wrote to -- I sent -- Under March 28 I sent a letter to the club advising that in view of the conviction of

A. I wrote to the Provincial Secretary -- I am sorry. I am just following my mind. I wrote to the Minister of Health advising that we had this report from the police.

Q. Did you Minister have jurisdiction on all grounds directed by Order Monday on March 25, did he not?

A. Yes, on all grounds. Yes, on March 25, that is right.

Q. Then, can you tell us when [illegible]?

A. Then, on March 27 I wrote to Acting Chief Keep that I was writing the Minister advising that in view of the information contained in this report a letter would be sent advising the letters patent would be cancelled. Then, on March 27 I received a memorandum from -- I wrote a memorandum to Mr. Levine, directing --

Q. [illegible]

A. I wrote a memorandum --

Q. [illegible]

A. On March 27, 1942. To Mr. Levine, drawing his attention to the report and asking him to prepare a cancellation letter. On March 28, I wrote to -- I sent -- Under March 28 I sent a letter to the Minister advising that in view of the conviction of

Benjamin Lietman and Benjamin Steinberg of keeping a common betting house, the charter would be cancelled for cause in one week unless cause were shown to the contrary. Then, I so advised Chief Kerr of my letter and, then, I received a letter from the club's solicitors.

Q. On what date?

A. On April 4, 1962.

MR. ESTEY: Q. And they ask you there to withhold the proceedings because he is appealing the conviction?

A. Yes. Advising there was a conviction (sic) and to withhold the cancellation proceedings.

Q. As a result of that you consulted your Minister, according to the file.

A. Yes. I received their letter April 4 or 5. I wrote the Minister on April 5, bringing the letter of the solicitors to the Minister's attention. And to have his direction in the matter, as to whether we should proceed.

Q. I take it he directed you not to proceed until the appeal was disposed of because on the 11th you wrote to the club to that effect?

A. Yes.

Q. On April 13 you received from --

I do not know when you received it but a report of April 13th reached you. It originates with Inspector Thurston.

A. Yes.

Q. And he asks his superiors to try and get the charter cancelled regardless of any decision of the Court of Appeal?

A. Yes. That is April 13, 1962, a letter from Deputy Chief Elliott enclosing a letter from Inspector H.S. Thurston, and indicating that there is more than sufficient grounds for the cancellation of this club charter regardless of the decision of the Appeal Court. And asking, in effect, that:

" I respectfully suggest
"that a letter be forwarded to
"the Deputy Provincial Secretary,
"requesting him to recheck the
"ground for cancellation for cause,. . ." -

and requesting him to take it up.

Q. Was the club operating during this time?

A. I don't know whether it was operating then but it was operating later so I guess it was operating then. This was in April of this year and they were operating in July.

(Page 13155 follows)

I do not know when you received it but a copy of April 13th reached you. It originates with Imperial Chemicals.

A. Yes.

Q. And he asks his superiors to try and get the charter cancelled regardless of anybodeation of the Court of Appeal?

A. Yes. That is April 13, 1952, a letter from Deputy Chief Militot enclosing a letter from Inspector H.S. Thurston, and indicating that there is some kind of grounds for the cancellation of this club charter regardless of the decision of the Appeal Court. And asking, in effect, that:

"that a letter be forwarded to
"the Deputy Provincial Secretary,
"requesting him to withdraw the
"ground for cancellation for cause, . . ."

and requesting him to take it up.

Q. Was the club operating during this time?

A. I don't know whether it was operating then but it was operating later on I guess it was operating then. This was in April of this year and they were operating in July.

[Page 1232 follows]

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Q. Then what happened next?

A. Then I wrote a letter to Mr. Lavine, I received the letter on April 16th. I wrote Mr. Lavine on April 27th, 1962:

"I attach a copy of letter from "Deputy Chief Elliott relative to the "above and the attached letter from "Inspector Thurston. I would appreciate "it if you would look into the "report further from the police to "see if there are any other grounds "for cancellation apart from the "conviction."

Then there is a letter on April 27th, 1962, from me to Deputy Chief Elliott:

"Dear Mr. Elliott,

"I have your letter of April . . . "

THE COMMISSIONER: Never mind reading it, the substance of it.

A. I say:

"I have taken the matter up with my "Minister . . . " --

this is the two last reports --

" . . . and the Minister has directed "that we should not proceed with the "cancellation until the appeal has "been disposed of. He is now "absent for a few holidays and I "will check into the matter further

Q. Then what happened next?

A. Then I wrote a letter to Mr. Davies.

I received the letter on April 16th. I wrote Mr. Davies on April 27th, 1938:

"I enclose a copy of letters from "Deputy Chief Allison relative to the "above and the attached letter from "Superintendent Cadmer. I would appreciate "if you would look into the "circumstances leading to the "resignation of Constable Cadmer."

Then there is a letter on April 27th, 1938, from me to Deputy Chief Allison:

Dear Mr. Allison,

"I have your letter of April . . . "

THE COMMISSIONER: Never mind reading it, the substance of it.

A. I say:

"I have taken the matter up with my "minister . . . " --

this is the two last reports --

" . . . and the Minister has directed "that we proceed not proceed with the "conciliation until the appeal has "been disposed of. He is now "absent for a few months and I "will check into the matter further

"and discuss Inspector Thurston's letter
"with him on his return."

MR. ESTEY: Q. Now, I see on the file you next received a report from Mr. Lavine of your Department on May 1st, 1962, and that is in answer to your memorandum asking Mr. Lavine to see if there are any other grounds for cancellation. What is his reply?

A. May 1st, 1962, he says there would not seem ---

THE COMMISSIONER: This is his reply, is it?

A. Yes.

Q. Dated what?

A. Dated May 1st, 1962.

Q. This is a report from Mr. Lavine to you?

A. Yes, in reply to my memorandum further sending on the second report of the police.

"It would seem to me that even if
"there are other sufficient grounds
"for cancellation, it would be
"highly prejudicial to the club
"and its officers in respect to the
"charges if the charter were
"cancelled before the appeal was
"disposed of.

"In this connection I would

"and thinks Commissioner Thompson

"with him on his report."

MR. MERRY: Q. Now, I see on the 11th you just received a report from Mr. Levine of your improvements on May 4th, 1908, and then in an answer to your memorandum asking Mr. Levine to see if there are any other grounds for cancellation. Have you that?

A. May 1st, 1908, he says there

MR. COMMISSIONER: This is his copy, is it?

A. Yes.

Q. Dated when?

A. Dated May 4th, 1908.

Q. This is a report from Mr. Levine to you?

A. Yes, in reply to my memorandum further bearing on the second report of the Minister.

"It would seem to me that even if

"there are other multiform grounds

"for cancellation, it would be

"highly prejudicial to the Crown

"and its officers in response to the

"charges if the character were

"associated before the appeal was

"disposed of.

"In this connection I would

"refer, for example, to the New Canadian "Social Club where the Department waited "the results of the appeal which, as "you know, quashed the conviction.

"As to whether there are other "sufficient grounds, I have again "read the report of March 15th, 1962, "of Inspector Thurston and, while "he makes a number of charges, for "example that there are certain "false statements in the annual "returns, I doubt that there would "be evidence to prove that the "persons who made the returns knew "them to be false.

"Much of the other charges "relates to evidence with respect "to illegal gaming, and this is "the substance of the conviction "which is now being appealed."

Q. You are Deputy Minister?

A. Yes.

Q. What position does Mr. Lavine occupy?

A. He is Director of Companies.

MR. ESTEY: And he reports to you?

A. Yes.

Q. Now, did you adopt this recommendation from Mr. Lavine and, if so, why?

"Yes, the charge, so far as the Committee
"would also cover the Government proposal
"the results of the appeal which, as
"you know, qualify the prosecution.
"As to whether there are other
"sufficient grounds, I have again
"read the report of March last, and
"Mr Lambert Trevelyan will, while
"he makes a number of changes, for
"example, here now available
"this commission in the issues
"returns, I doubt that there would
"be evidence to prove that the
"persons who made the returns knew
"them to be false.

"Much of the other charges
"relates to evidence which requires
"to itself qualifying, and that is
"the substance of the convictions
"which is now being appealed."

Q. You are having Malvern?

A. Yes.

Q. What position does Mr. Malvern
hold?

A. He is Director of Companies.

Mr. Shaw: And he reports to you?

A. Yes.

Q. Now, did you ever give a recommen-
dation from Mr. Jardine and, if so, why?

A. No, I wrote to Mr. Yaremko on May 2nd:

"I am in receipt of a letter "from Deputy Chief Elliott of Metro "Toronto Police attaching a report "of Inspector Thurston relative to "the above club."

That was the second report.

THE COMMISSIONER: This is May 2nd you are writing?

A. May 2nd to the Minister, Mr. Yaremko, relative to the above club, and asking whether we re-check the grounds for cancellation for cause with a view to cancelling the charter.

"I am attaching the correspondence "and the file and would like to "discuss the matter with you upon "your return."

Then I wrote a letter to Mr. Yaremko. Then I discussedthe matter ---

MR. ESTEY: Q. You say you wrote that memo to the Minister?

A. To the Minister, yes.

Q. What was the reply?

A. Well, there is no reply, but apparently I discussed the matter with him in his office. I do remember that occasion because there is some pencilled notes on here, "Write Mackey,Atlas", and these are notes I

A. No. I wrote to Mr. Yarmoo on my own:

"I am in receipt of a letter

"from Deputy Chief Elliott of Metro

"Toronto Police attaching a report

"of Inspector Thompson relative to

"the Jerry case."

That was the second report.

THE COMMISSIONER: Tell us why did you

are writing?

A. May that to the Minister, Mr.

Yarmoo, relative to the above case, and

asking whether we re-check the ground to

determine the same was a very b.

ascertain the fact.

"I am attaching the correspondence

"and the file and would like to

"discuss the matter with you upon

"your return."

When I wrote a letter to Mr. Yarmoo.

Then I also wrote another ---

Q. Did you give a copy of your letter

over to the Minister?

A. To the Minister, yes.

Q. What was the reply?

A. Well, there is no reply, but

apparently I discussed the matter with him in

his office. I do remember that occasion

because there is some pencilled notes on here,

"Write Mackey, Atlas", and these are notes I

made from my Minister's direction.

Q. Then you do recollect the memo on the file?

A. Then I wrote to Mackey on May 29th, 1962, and I say ---

Q. The effect of it is you ask if the club is still operating, is it?

A. Yes.

"I referred the matter to our Minister.
"I would advise that we will hold up
"the matter of cancellation pending
"the appeal, but whatever way the
"appeal is disposed of we will
"reconsider the matter and the
"original report and proceed with
"a hearing to determine whether
"there is in fact some other cause."

THE COMMISSIONER: What date is that?

A. That was May 29th, 1962, my lord. Then I end up by saying:

"I would appreciate your advice as
"to whether the club is in fact
"operating."

It was advising Chief Mackey that we would -- the matter had been taken up and that we would not go ahead with the cancellation pending the appeal, but the hearing would be held when the appeal had been disposed of, and enquiring in the meantime if the club was in

made from my Manager's direction.

Q. Then you do recollect the memo on the file?

A. Then I wrote to Mackay on May 29th, 1952, and I say ---

Q. The effect of it is you ask if the club is still operating, is it?

A. Yes.

"I referred the matter to our Manager.

"I would advise that we will hold p

"the appeal, but however my the

"appeal is disposed of we will

"original report and proceed with

"there is in fact some other cause."

THE COMMISSIONER: What date is that?

A. That was May 29th, 1952, my lord.

Then I end up by saying:

"I would appreciate your advice as

"to whether the club is in fact

"operating."

It was advising Outer Mackay that we would ---

the matter had been taken up and that we would

not go ahead with the cancellation pending

the appeal, but the hearing would be held

when the appeal has been disposed of, and

emphasizing in the meantime if the club was in

fact operating.

MR. ESTEY: Q. And this surely was to ascertain what other grounds were available in addition to the fact of the conviction?

A. That is right.

Q. Then Inspector Thurston reported to you through Chief Mackey?

A. Yes.

Q. I think his covering letter is dated 8th of June, 1962?

A. That is correct.

Q. The effect of it was that the gambling was continuing?

A. That the club is in fact operating, yes, and that gambling is ---

Q. Inspector Thurston names some of the gamblers present -- Rocco Papalia, LeBarre?

A. Yes, he names ---

Q. Then what happens next? Perhaps we could save time. Ultimately after your inter-departmental conversation, you wrote a letter to the ---

A. Yes, I referred it toMr. Lavine.

Q. And then you wrote the club?

A. I spoke to Mr. Yaremko and he instructed me to write the club's solicitor advising that unless the club ceased to operate pending the appeal of the conviction, we would continue with the cancellation of the

[illegible] operating.

MR. ROTEN: Q. And this money was to supplement what other program were available in addition to the lack of the contribution?

A. That is right.

Q. [illegible]

A. Yes.

Q. I think the covering letter is dated the 2d of June, 1937?

A. [illegible]

Q. The effect of it was that the [illegible]?

A. That the club is in fact operating, [illegible]

Q. Independent Thunderbird means some of the [illegible]?

A. Yes, he means ----

Q. [illegible] we could have time. Ultimately after your inter-departmental correspondence, you wrote a letter to the ----

A. Yes, I referred it to, Irving.

Q. And then you wrote the study

A. I spoke to Mr. Yarnell and he instructed me to write the club's notification stating that unless the club ceased to operate pending the appeal of the cancellation, [illegible]

charter. That was a result. It was not on this file but it is one of these other two clubs, that he asked me to write the Attorney General's Department as to whether we could ask the club to close up.

Q. Which you told us about before?

A. Yes.

Q. Mr. Silk phoned you and said that you could?

A. That is right.

Q. Then what happened on this file following that? That was on July 25th you wrote the club, was it not?

A. July 25th I wrote the club and I said that ---

Q. Well, we had the sense of that. What happened next?

A. I sent a copy of that to Chief Mackey, copy of the letter of the 25th, and then on August 3rd I received a further letter from Chief Mackey attaching a report from Sergeant Pilkington, Morality Bureau, and Chief Mackey says:

"In view of the circumstances "outlined therein and the report . . . " -- He strongly recommends the charter be cancelled and he refers -- then in Sergeant Pilkington's report apparently he alleges that gambling is still going on on the premises and also that

cannon. That was a result. It was not on the file but it is one of those other two cases, that he stated he is willing his General's opinion as to whether he could ask the club to close up.

Q. When you told us about before?

A. Yes.

Q. Mr. Silk phoned you and said

A. That is right.

Q. When what happened on this file

A. Daily Zion I move the club and

Q. Well, we had the gone of that.

A. I sent a copy of that to Chief Ranger, copy of the letter of the 29th, and then on August 3rd I received a further and Chief Ranger says:

In view of the advertisement

"outlined therein and the report . . . " -- he strongly recommends the charter be cancelled and he refers -- then in Sergeant Hinkinson's report Superintendent Sallows that

is still going on on the pre mises and also that

the club did not close up immediately after the letter of July 25th.

THE COMMISSIONER: Well, when was this conviction with respect to which the appeal was pending?

MR. ESTEY: It was in March, 1962, wasn't it, Mr. Cudney, bonviction of Benjamin Leitman?

A. Benjamin Steinberg and Benjamin Leitman, yes, in March -- conviction on March 5th, 1962.

THE COMMISSIONER: March what?

A. March 5th, 1962, my lord.

Q. Benjamin Leitman and who else?

A. Benjamin Leitman and Benjamin Steinberg.

Q. That was in August. Anything happen from then till now? What is the present status?

A. No, there is a bit more, my lord. I wrote the club, we read, on July 25th, and then I received a letter from Chief Mackey on August 3rd advising that the club had not closed immediately and also that the gaming had continued.

MR. ESTEY: Q. Yes, you told us of that?

A. Yes, then I wrote to Mr. Yaremko on August 16th when I returned from holidays and enclosed Chief Mackey's report and said I would like to discuss the matter with him.

[illegible]

[illegible]

THE COMMISSIONER: Well, when was this conversation with reference to which the repeat [illegible]?

MR. MERRY: It was in March, 1902, wasn't it, Mr. Gadsby, conviction of Bonjamin Latimer?

A. [illegible]

[illegible] — convicting [illegible].

THE COMMISSIONER: Which [illegible]?

A. [illegible].

Q. Bonjamin Latimer and who else?

A. Bonjamin Latimer and Jonjamin [illegible].

Q. That was in August. Anything happen from then till now? Have in the [illegible]?

A. No, there is a bit more, my lord. I [illegible], [illegible] when I received a letter from Chief Ansley on August 2nd advising that the camp had been closed immediately and also that the grading and [illegible].

MR. MERRY: Q. You, you been on of chief?

A. Yes, then I wrote to Mr. Vanwhe on August 16th when I returned from holidays and enclosed Chief Ansley's report and said I would like to discuss the matter with him.

Then I wrote to Mr. Margolian, Departmental Solicitor.

THE COMMISSIONER: Same day?

A. No, on August 27th, my lord. I say:

"After conferring with the Minister "on the matter he asked me just "before I left on Friday to write "to the club and advise that a "hearingwill be held to consider "the cancellation of the charter, "indicating all possible grounds."

And I said:

"We should appreciate if you would "review this file and set out all "possible grounds so that I will "have the letter upon my return "from Halifax."

CC/2

MR. ESTEY: Q. That is what you are asking Lavine to do earlier?

A. Yes, it was a former letter.

Q. April 27th you were asking Mr. Lavine to do that, Samuel Lavine. What is the present status, Mr. Cudney?

A. Then I wrote to the club in September or the solicitors for the club, on September 25th, 1962, advising that the hearing would be held at my office to consider cancellation on the following grounds.

Was I arrested by Mr. Douglas (Superintendent) Brannigan?

THE COMMISSIONER: Was that?

A. No, on August 27th, my lord. I read:

"Labour solidarity also the minimum
"on the answer to arrest on June
"before I look on Friday to write
"the [illegible] and return this a
"hearing will be held to consider
"the connection of the charges,
"Notwithstanding all possible grounds."

And I said:

"I would appreciate if you could
"review this file and get out all
"[illegible]
"have the lawyer upon my return
"from Halifax."

Mr. ARTHY: Q. Then is what you are asking Davis to do evidence?

A. [illegible]

Q. Again after you were asking Mr. Davis to do this, Sgt. Davis. What is the answer's answer, Mr. Gudonyf?

A. Then I move to the club in [illegible] on September 25th, 1965, advising that the hearing would be held at my office to consider cancellation on the following grounds.

I set out three:

1. That the corporation has not operated as a bona fide social club, that is, forfeiture of powers.

2. The illegal gaming activities had been conducted upon the premises of the corporation.

3. The corporation has continued to operate contrary to my letter of July 25th, 1962.

A hearing was set for October 11th, but in view of the Commission proceedings it has been adjourned sine die.

Q. Any further delay you can blame on me. Now, let me ask you about those grounds. Apart from Mr. Silk's telephone conversation with you, what authority do you assert the Department has to write, to tell the club that they must not use their letters patent at any particular time?

A. Well, this was a case where there had been other grounds as well, possible forfeiture of powers.

Q. Well, I will come to that. That is your second ground?

A. Yes. Also the conviction in itself, that we thought we should confer with the Minister, the Minister to confer with the Attorney General's Department to see whether

[illegible]:

A. That the corporation has not operated as a bona fide social club, but is, furthermore, a [illegible].

2. The illegal gaming activities had been conducted upon the premises of the corporation.

3. [illegible]

"In opposition contrary to my letter of [illegible], [illegible].

A hearing was set for October 12th, but in view of the Commission proceedings it has been adjourned sine die.

Q. Any further delay you can blame on me. Now, let me ask you about those records. Apart from Mr. Sikich's telephone conversation with you, was authority do you assert the corporation has to write, to tell the club that they were not the short-[illegible] records at any particular time?

A. Well, this was a case where there had been other proxies as well, [illegible].

Q. Well, I will come to that. Then is your recollection [illegible]?

A. Yes. Also the convention in Detroit, that we thought we should come with the Sheriff, the Sheriff to collect from the [illegible] Attorney General's representative to see whether

we were to ask them not to operate until the appeal was disposed of.

Q. Was the appeal disposed of? I didn't ask you that.

A. I don't think it has. I haven't heard. I don't think it has been disposed of.

THE COMMISSIONER: I don't know.

MR. ESTEY: It is quite an old one. They may have taken it up to the Supreme Court of Canada, I suppose.

THE COMMISSIONER: That is a very pointed question, Mr. Estey. I would like to know what Mr.Cudney has to say about it. Given a case where there is a conviction and an appeal pending, what jurisdiction has the Department, the Minister, to say that the corporate entity must not operate while this appeal is pending and, "If you do we will cancel your charter"?

A. Well, it is a new procedure, my lord. We have never -- first of all, may I say this -- we have never done it before. These reports were taken up when I received them, after report with my Minister, and the suggestion was to take it up with the Attorney General's Department to see what they thought about this. They thought that we were within our rights in asking

we were to ask them not to operate until the appeal was disposed of.

Q. Was the appeal disposed of? I didn't ask you that.

A. I don't think it has. I haven't heard. I don't think it has been disposed of.

[illegible]: I don't know.

Mr. MERRY: It is quite an old one. They may have taken it up to the Supreme Court, or [illegible].

THE COMMISSIONER: That is a very pertinent question, Mr. Merry. I would like to know what Mr. Gadsby has to say about it. Given a case where there is a conviction and an appeal pending, what jurisdiction has the department, the Minister, to say that the appeal is pending and, "If you do so [illegible]"?

A. Well, it is a new procedure, as I know. We have never -- first of all, may I say this -- we have never done it before. These reports were taken up when I received them, after report with my Minister, and the suggestion was to take it up with the Attorney General's Department to see [illegible] the more within our rights in asking

that the club not operate until after the appeal was disposed of. I don't know about the matter of jurisprudence. Of course, before they are convicted they are judged innocent. Whether the same applies on the appeal ---

MR. ESTEY: Q. May I put it on more narrow, perhaps clearer grounds. The Act says you have discretion to grant and you have discretion to cancel, but I cannot find anything in the Act that you have discretion to suspend.

A. No, there is not. No, it would not be under anything, Mr. Estey, in the Act. I suppose it was a matter of saying that we will cancel if ---

THE COMMISSIONER: Suppose the club were to say, "Go and jump in the lake. We were wrongly convicted. We want to carry on our legal powers. We were wrongly convicted or there was a wrong conviction of some members."

A. Yes.

Q. "And we have these powers given to us by theletters patent, and so long as the letters patent are extant we are going to exercise thepowers that we have."

A. Yes.

Q. However, I am not here to decide that question.

MR. ESTEY: No.

what the club can operate until after the appeal was disposed of. I don't know about the matter of jurisdiction. Of course, before [illegible] --

Mr. [illegible]: Well I get in an area narrow, perhaps closer ground. The Act says you have discretion to grant and you have discretion to cancel, but I cannot find anything in the Act that you have discretion to suspend.

A. No, there is not. No, it would not be under anything, Mr. Kelly, in the Act. I suppose it was a matter of saying that we will cancel it --

THE COMMISSIONER: Suppose the club were to say, "Go and jump in the lake." We were wrongly convicted. We want to carry on our [illegible]. [illegible] or there was a wrong conviction of some members.

A. Yes.

Q. "And we have these powers given to us by theatres [illegible], and so long as [illegible] to exercise those powers that we have."

A. Yes.

Q. However, I am not here to decide [illegible].

Mr. [illegible]: Yes.

THE WITNESS: I mean, they apply, as I mention, not only -- to three clubs, Atlas, Arlington and Parthenon. The same action was taken with respect to the three of them, the police reports, the same, this general procedure right along on parallel lines. I don't know whether my letter to Mr. Common would be of any ---

THE COMMISSIONER: I don't think it will help me much. You took advice from the Attorney General's Department and you acted on it?

A. Yes.

MR. ESTEY: Q. All right, this is the procedure which you follow as a matter of policy, and this club merely illustrates the application of that policy?

A. No, it is not. This is the first time this has been done.

Q. I heard that.

A. Yes.

Q. I take it that you will in the future intend to rely on the Attorney General's advice, and if the advice is the same you will do this again?

A. Well, I can't say.

Q. On the forfeiture, Mr. Cudney, and let us not get into -- this is the same argument as we had this morning as to whether

THE LEADER: I mean, they apply, as I mention, not only -- to three clubs, Atlanta, Birmingham and Baltimore. The same action was taken with respect to the three of them, the police report, the case, this general procedure right along on practical issues. I don't see [illegible] Mr. [illegible] would be of any ---

THE COMMISSIONER: I don't think it would help me much. You took advice from the Attorney General's Department and you acted on it?

A. Yes.

MR. MOTT: Q. All right, with in the procedure which you follow as a matter of policy, and this club merely illustrates the application of that policy?

A. No, it is not. This is the first time this has been done.

Q. A [illegible]?

A. [illegible].

Q. I take it that you will in the future [illegible] advice, and if the advice is the same you will do this again?

A. Well, I don't say.

Q. On the forehand, Mr. Gainey, [illegible] BY-LAW [illegible] arguments as we had this morning as to whether

you should not have barrelled ahead with the forfeiture here. Mr. Lavine in his memorandum does not mention forfeiture. Did you have any opinion during 1962 as to whether forfeiture was a ground of cancellation of this Atlas Club charter?

A. I think just as we reviewed this file, the returns were filed in bundles, I think, weren't they, at different times?

Q. Yes.

A. Which always raises the presumption of foffeiture. It is not always conclusive of forfeiture.

Q. No.

A. But it always raises a strong presumption of forfeiture and it would certainly be wise to look into.

Q. That is why you held the hearing. Would you turn to the Chan ---

THE COMMISSIONER: Just a moment. I said earlier, at the moment there seems to be a little inconsistency. July 25th, 1962, the club is notified that there will be a hearing at which the Department will contend that the charter should be cancelled by reason of forfeiture of powers, and the legal entity against whom that is threatened will say, "Well, we have the letters from you. Years after you could have said that the powers were

you would not have supplied that gap in forfeiture here. Mr. Laying in his memorandum does not mention forfeiture. Did you have any opinion during 1908 as to whether forfeiture was a ground of cancellation of your claim also?

A. I think, just as we reviewed this file, the returns were filed in bundles. I think, without Gray, on different times.

Q. Yes.

A. [illegible] values the [illegible] of forfeiture. It is not always cognizant of forfeiture.

Q. [illegible]

A. But it always raises a strong presumption of forfeiture and it would certainly be time to look into.

Q. That is why you held the [illegible]. Would you turn to the Gunn ---

THE COMMISSIONER: Just a moment. I said earlier, at the moment there seems to be a little [illegible], [illegible], [illegible] and it notices that there will be a hearing at which the Department will contend that the claimer should be cancelled by reason of forfeiture of powers, and the [illegible] entry stations when that is thoroughly will say, "Well, we have the letters from you. Years after you could have said that the powers were

forfeited and then you were admonishing us not to continue operating while the appeal was pending." The innuendo being, well, if there was not an appeal pending you would be entitled to carry on. Did that strike you?

A. Yes, it did.

Q. There does seem to be some inconsistency?

A. Yes, it is entirely as I say. It is the first time this has ever been done, my lord.

Q. This illustrates the problems that you have up there?

A. Yes.

THE COMMISSIONER: Now, let us have ten minutes and will you come in, Mr. Wilson, and will you come in, Mr. Estey.

---A short recess.

---On resuming:

MR. ESTEY: Q. Mr. Cudney, I gave you a bad lead. We are not going into the Chann Social Club but rather the New Canadian Social Club, and after that the Parthenon.

THE COMMISSIONER: New Canadian Social Club?

MR. WILSON: It is in H, 26.

MR. ESTEY: It is in K at page 10.

MR. WILSON: I don't think it is in the

corrected and when you were admonishing us not
to [illegible] [illegible] [illegible]
penalty." The Innocuous Dotty, well, if there
was not an appeal penalty you would be entitled
to [illegible] [illegible] [illegible]

A. Yes, so did.

Q. There does seem to be some incon-
sistency.

A. Yes, it is entirely as I say.
It is the first time this has ever been done,
my lord.

Q. Only [illegible] [illegible] [illegible]
you have to choose?

A. Yes.

THE COMMISSIONER: Now, let us have ten
minutes and will you come in, Mr. Wilson, and
will you come in, Mr. Bovey.

---a short recess.

---on resuming:

MR. BOVEY: Q. Mr. Chorney, I gave you
a bad lead. We are not going into the Club
Social Club but rather the New Canadian
Social Club, and rather than the Provincial
Club?

MR. WILSON: It is in it, sir.

MR. BOVEY: It is in it on page 36.

MR. WILSON: I don't think it is in the

brief. I don't recall.

MR. ESTEY: I don't see it in the brief.

Q. It is the New Canadian Social Club, incorporated 1944, Mr. Cudney. Do we have the same ---

A. 1945, June 15th.

Q. Oh, yes. I suppose whatever embarrassment this club may be to any one, if it is an embarrassment, the situation might be worse had the original name persevered. I see the application was -- if Mr. Wilson will forgive me -- the New Canadian Progressive Conservative Social Club, and that name was changed before the letters patent were issued.

My lord, I stand corrected. It is at page 75 of the brief itself and the name is wrong in the brief.

MR. WILSON: Of course, we have had the Italian Liberal Club, not that it makes any difference.

MR. ESTEY: Q. This New Canadian Social Club, I thought on this file it would indicate ---

THE COMMISSIONER: June 15th, 1955, was it?

MR. ESTEY: 1945.

THE WITNESS: 1945, my lord.

MR. ESTEY: Q. Mr. Cudney, we can do it rather quickly on your C file. Your returns

Great. I should think.

MR. [illegible]: I think we ought to do that.

Q. Is the New Question Social Club, incorporated 1924, Mr. Gurney, to my knowledge ---

A. 1925, June 15th.

Q. Mr. Yes. A general statement concerning this club may be so say one, if it is an overstatement, the admission might be given but [illegible] preserved. I see the application was -- if Mr. Wilson will forgive me -- the New Question Progressive Conservative Social Club, and that name was changed before the letters [illegible].

My Lord, I stand corrected. It is at page (7) on the brief itself and the name is wrong in the brief.

MR. WILSON: Of course, we have had the Italian Liberal Club, not that it makes any difference.

Q. [illegible] Mr. Gurney, I thought on this like to ask indicate --

[illegible] [illegible] 1925.

was let

MR. [illegible]: [illegible].

THE WITNESS: Yes, my Lord.

MR. [illegible]: Q. Mr. Gurney, we can do it rather quickly on your G file. Your returns

again indicate that they came in a group, because 1951, 1952 and 1953, they came in, I think -- excuse me, they show the club holding an annual meeting -- I am wrong -- they came in annually but they show no annual meeting after March 28th, 1951.

A. Pardon me a second. They show

CC/3 an annual meeting, 1949.

Q. Yes?

A. They show an annual meeting in 1949.

Q. Show one in 1950?

A. I am going back. 1948, 1947 returns, they show one. Then in 1950, you say?

Q. Starting in 1951 they seem to have no annual meetings after March 30th, 1951 until they hold a meeting in 1954?

A. In the March 31st, 1952, report they show an annual meeting on March 30th, 1951.

Q. That is right.

A. In the March 31st, 1953, they show an annual meeting March 30th, 1952.

Q. I have that 1951. I am sorry, you are undoubtedly correct.

A. I am just reading from the return here.

Q. Yes?

A. March 31st, 1954, they show an annual meeting March 29th, 1953.

Q. All right, my notes are not correct

again indicate that they came in a group, because [illegible] -- excuse me, they show the club holding an annual meeting -- I am wrong -- they came in annually but they show no annual meeting [illegible].

A. Pardon me a second. They show no annual meeting, [illegible].

Q. Yes?

A. They show an annual meeting in [illegible].

Q. Show one in [illegible]?

A. I am going back. [illegible] return, they show one. Then in 1950, you say?

Q. Starting in [illegible] they seem to have no annual meetings after March 20th, [illegible] until they hold a meeting in [illegible]?

A. In the March [illegible], 1956, report they show an annual meeting on March 20th, [illegible].

Q. [illegible]

A. [illegible] show an annual meeting March 20th, 1956.

Q. I have that [illegible]. I am sorry, you are undoubtedly correct.

A. I am just reading from the [illegible].

Q. [illegible]?

A. [illegible] they show an annual meeting March 20th, 1956.

Q. All right, my mistake not correct

in that.

A. Then there is an annual meeting in 1954.

THE COMMISSIONER: What is the point you want to make?

MR. ESTEY: None now, my lord. My notes are wrong and the annual meetings, Mr. Cudney says, were held. My notes indicate that they were not.

THE WITNESS: There is a jump from 1954 to 1956.

MR. ESTEY: Q. All right. That, of course, under the new statute by that time, is it not, so the first thing we see then is December 29th, 1960, where there is, I think in your file, a newspaper item of a conviction -- excuse me, it is arrest, and immediately thereafter you have a report from Commissioner Clark?

A. Yes. That is a police report, Mr. Estey?

Q. Police report from Commissioner Clark dated -- the letter to you is January 5th, 1961. That is, I suppose, a proposed transfer, is it not?

A. January 5th, 1961, Mr. Estey, yes.

THE COMMISSIONER: What is the report about?

MR. ESTEY: Q. What is that about, Mr.

Mr. Levy.

A. When there is an annual meeting in April.

THE COMMISSIONER: What is the point you want to make?

MR. SCHEER: Here now, my lord. My notes are wrong and the annual meetings, Mr. Clancy says, were held. My notes indicate that they were not.

THE WITNESS: There is a gap from 1924 to 1926.

MR. SCHEER: Q. All right. Then, of course, under the new statute by that time, as it was, so the first thing to see when is December 29th, 1926, where there is, I think in your line, a newspaper item of a convention -- excuse me, it is street, and [illegible] from Commissioner Clancy?

A. Yes. That is a police report.

Mr. Scheer:

Q. Police clerk was [illegible] Plain Talk -- the interview was in January 3rd, 1927. Then is, I suppose, a meeting [illegible], is it not?

A. [illegible] Mr. Scheer, [illegible].

THE COMMISSIONER: What is the report [illegible]?

MR. SCHEER: Q. What is that about, Mr.

Cudney?

A. Well, the club was proposing to make a transfer of its club premises for which they needed the consent of the Provincial Secretary. The matter had been referred to the police.

MR. ESTEY: Q. What was the proposed address to be, Mr. Cudney?

A. To move from 364 Queen East to 372 Queen East.

Q. What is the effect of the Provincial Police report?

A. And the police report advised that the club in December, 1960, moved, had already moved to the new premises and that ---

Q. Did they approve it?

A. Just pardon me a second.

Q. Do you see a note that they could not approve the transfer in view of the raid and the charges laid?

A. Yes, I was just trying to find that. I knew they had.

THE COMMISSIONER: They wanted permission to move from where to where?

MR. ESTEY: 364 Queen Street in Toronto to 372 Queen Street, they are both Queen East.

THE WITNESS: Well, it states that there has been a raid by the Metropolitan Toronto Police and charges had been preferred,

[illegible]

A. Well, one step was proposing to make a transfer of the club premises for which was issued the renewal of the provincial secretary. The matter had been referred to the police.

Q. [illegible] Had you any personal knowledge of this?

A. To move from 394 Queen West to 372 Queen West.

Q. What is the effect of the Provincial Police report?

A. And the police report stated that the club in December, 1930, moved, had already moved to the new premises and that --

Q. And they approve it.

A. Just pardon me a second.

Q. Do you see a note that they could not approve the transfer in view of the rules and the changes lately?

A. Yes, I was just trying to find that. I knew they had.

THE COMMISSIONER: They refuse permission to move from there to where?

MR. ISAAK: 394 Queen Street in Toronto to 372 Queen Street, they are both Queen West.

THE WITNESS: Well, it seems that there has been a rule by the Metropolitan Toronto Police not to grant any more licences.

and therefore they do not feel they could appove of the transfer.

MR. ESTEY: Q. And then the next police report on the file is March 8, 1961, Metropolitan Police?

A. Yes, this was dated -- we received it March 8, 1961, from the Metropolitan Toronto Police, Chief Mackey, addressed to myself. I was away at that time.

Q. Excuse me just a moment. This report does not deal with the transfer. You by this time had refused the transfer, had you not?

A. Now, I can't say that the transfer has been ---

Q. January 12th, 1961, you wrote to the solicitor in question refusing, denying the application, and refunding the $20 fee. Do you see that?

A. Yes, Miss O'Rourke, Departmental Solicitor, saying ---

THE COMMISSIONER: What date?

A. January 12th, 1961, my lord: "We are unable to grant the application".

MR. ESTEY: Q. All right, then the next police report is dated March 8th, 1961, from Chief Mackey to yourself?

A. Yes.

Q. It forwards to you what really

and therefore they do not feel they could oppose at the [illegible].

Mr. [illegible]: Q. And then one read police reports on the file in March of 1951, [illegible] policy.

A. Yes, this was dated -- we received it March of 1951, from the Metropolitan Toronto [illegible], Brian Davis, [illegible] to speak. I was away at that time.

Q. [illegible] do just a moment. This report does not read with the [illegible]. You by this time had reviewed the [illegible], has you not?

A. Now, I could say that the [illegible] ---

Q. January 15th, 1951, you wrote to the solicitor in question [illegible], [illegible] the application, and returning the [illegible] fee. Do you see that?

A. Yes, Miss O'Donnell, Department [illegible] ---

Mr. CHARTRONDE: What date?

A. [illegible], "We are unable to grant the application".

Mr. MOTT: Q. Alright, then see [illegible] from Chief Kenny to [illegible]:

A. Yes.

Q. It refers to you have [illegible]

is Inspector Walker's report of the 28th February, 1961?

A. Yes.

Q. And the report commences, I think you will see there, that the club was found to be located at 249 Victoria Street in January, 1956, do you see that?

THE COMMISSIONER: They had already moved from where?

MR. ESTEY: Q. This report says that in 1956, which would be five years earlier, they were at 249 Victoria Street?

A. 249 Victoria Street.

"The club operated at 360 King East "until 1950 when the annual returns "indicate the head office was "removed back to the residence of "Lazar Eftoff, 52 Wyart Avenue, "where it remained until it was "found to be located at 249 Victoria "Street on January 4th, 1956."

Q. More importantly, further on in that report the Inspector says in effect that on interviewing the principals it was stated that the objects in the charter were not adhered to as this was primarily a restaurant. In other words, they are using this corporation without share capital which was to be conducted within the names

of the principals, as a vehicle within which to conduct a commercial enterprise. That is the way I read that report. Do you agree with that?

A. Yes, a restaurant business.

Q. Would you read the last paragraph on page 2?

A. That they were operating as a private enterprise,two persons.

THE COMMISSIONER: Two persons?

A. Two persons were running a restaurant business as their own private enterprise, and they alone benefited from all profits derived from the venture.

Q. Two persons? What about the membership generally? Was this a restaurant at 249 Victoria Street?

A. Well, my lord, they are referring, I take it, to the club that that complaint is about, and they say that it is a restaurant business.

MR. ESTEY: Q. Read Mr.Commissioner the last paragraph on that page.

A. "Christoff and Photocis stated "that the restaurant business was their "own private enterprise, and that they "alone benefited from all profits "derived from this venture. Along "with this, they charged the club

of the partnership, as a vehicle within which to conduct a commercial enterprise. That is the way I read that report. Do you agree with that?

A. Yes, a reasonable inference.

Q. Would you read the last paragraph on page 27?

A. That they were operating as a private association, or partnership.

MR. COMMISSIONER: Not already?

A. Two persons were running a commercial business as their own private enterprise, and they alone benefited from all profits derived from the venture.

Q. Two persons? What about the membership generally? Was this a profit-sharing or not? Already answer.

A. Well, my lord, they are referring, I take it, to the club that that complaint is about, and they say that is a reasonable inference.

Q. Yes. Now if you look at the last paragraph on that page.

A. "Because the partnership
"that the contractual business was their
"own private enterprise, and that they
"alone benefited from all profits
"derived from this venture. Also
"with that, they engaged the club

"$225 a month for rent. They both
"received salaries of $40 a week from
"the club and also paid $40 a week
"to Lazar Eftoff because he had
"been injured in an accident. All
"membership dues and all card fees
"charged were placed by them in the
"same common cash register along
"with the receipts from the
"restaurant business. No separate
"records were kept by them or any
"one else pertaining to the club
"meetings, financial status or
"social activities. Photoeis
"stated that the objects set down
"in the charter were not adhered
"to as this was primarily a
"restaurant. It was further
"ascertained that the two men
"had been the only active directors
"of the club for the previous two
"years."

(Page 13178 follows)

D/JBMcG/1

MR. ESTEY: Q. Would you look at the next paragraph at the top of the page?

A. Yes:

"As a result of the aforementioned "investigation Louis Photeis and "Christopher Shapinkos, a waiter, were "arrested on a charge of keeping a "common gaming house and 59 men on "the premises were charged as "found-ins of a common gaming house."

Q. And in the second paragraph below that it says the magistrate gave his reasons and said he thought this wasn't a bona fide operation and the letters patent have been used as a sham to cover the operations of Photeis and Christoff?

A. That is right.

Q. What did you do when you were faced with this problem that not only gambling was going on but there was a fundamental mis-use ofthe charter?

A. Well, there had been a conviction in this case. I was away at this time. I see on March 14th a memo was written by my representative to Mr. Yaremko enclosing a copy of the report. It is a fairly long memo.

THE COMMISSIONER: Q. It is a copy of the report?

MR. MOODY: Q. Would you look at the next paragraph at the top of the page?

A. Yes:

"As a result of the aforementioned
"investigation Sonia Moscato and
"Christopher Simpkinson, a waiter, were
"arrested on a charge of keeping a
"common gaming house and by men on
"the premises were charged on
"found-him of a common gaming house."

Q. And in the second paragraph below that it says the magistrate gave his reasons and said he thought that wasn't a bona fide operation and the lottery papers have been used as a ploy to cover the operations of Moscato and Christopher?

A. That is right.

Q. What did you do when you were faced with this problem that not only gambling was going on but there was a fundamental mis-use of the mails?

A. Well, there had been a conviction in this case. I was away at the time. I see on March 14th a memo was written by [illegible] a copy of the report. It is a family [illegible].

THE COMMISSIONER: Q. It is a copy of the report?

A. It is a copy of the report and reviews the situation of the applicant for a change of premises and it contains the police reports, the O.P.P. report, and also encloses Chief Mackey's report and what it boils down to is this:

"On Tuesday, February 7th, 1960, the "three accused appeared before His "Worship Thomas Elmore and Photeis "and Christoff were found guilty "as charged and sentenced to be "fined $200 each or imprisonment "of one month. The charges "against Shapinkos were dismissed."

Inspector Walker concludes by saying that from the method of operation the club was not a bona fide operation and the letters patent were being used as a sham. Inspector Walker recommends not only the permission for removal of the premises be denied but also that the charter be cancelled.

Q. On May 31st you wrote a letter to the club telling them you were going to cancel the charter on June 14th unless cause was otherwise shown?

A. Yes.

THE COMMISSIONER: Wait a minute, what happened next?

A. That was March 14th, 1961, and

A. It is a copy of the report and resumes the submission of the application for a change of pre-emption and to convert the entire [illegible], [illegible], [illegible], and [illegible] authorness Chief Mooney's report and what it will mean to us.

"Gentlemen, Premier Tim, [illegible] [illegible] [illegible] [illegible] [illegible] "Morally Thomas Sanco and Nicholas "and Sullivan [illegible] [illegible] "as charged and sentenced to be [illegible] "of one month. The charges "against [illegible] [illegible]."

Inspector Walker continues by saying that the method of conducting the club was not a bona fide operation and the lottery papers were being used as a sham. Inspector Walker [illegible] [illegible] [illegible] [illegible] [illegible] that the charges be cancelled.

Q. On May 2nd you received a letter to the club letting them you were going to cancel the charges, on June 14th [illegible] [illegible] [illegible]?

A. Yes.

THE COMMISSIONER: Wait a minute, [illegible] [illegible]?

A. That was March 14th, 1923, and

then there is a letter from me dated May 31st, 1961, addressed to the club indicating the two convictions and advising them that the charter would be cancelled. This is one of the matters I went into.

Q. That is when you came back?

A. Yes, sir.

MR. ESTEY: Q. In your notice of May 31st the reasons given to the club for the proposed cancellation of the charter were two convictions?

A. That is right.

Q. Then to complete this story of the club, you received a request from the lawyers for the defendants, or from the club, asking you not to proceed with this matter until the appeal had been disposed of?

A. Yes. I wrote my letter on May 31st and I received a letter from them on June 6th.

Q. And you agreed to this request after you had discussed it with the Minister?

A. That is right, and I so advised Chief Mackey.

Q. Now, at least at this stage of the proceedings you had in mind only one ground for your action?

A. Yes, the two convictions.

Q. You weren't considering private

time there is a serious flaw in Mr. Ba-
[illegible], concerned in the case involving the
[illegible] and witness [illegible]
[illegible] would be counselled. This is one of
the matters I want [illegible].

Q. Does it seem you were [illegible]

A. Yes, sir.

Mr. [illegible]: Q. Do your notes of the
last the reasons given to the club for the
proposed cancellation of the character more than
[illegible]

A. That is right.

Q. When to complete this story of
the club, you received a request from the
lawyers for the defendants, or from the
club, asking you not to proceed with this
matter until the appeal had been disposed of?

A. Yes. I wrote my letter on
May 3rd and I received a letter from them
on June 5th.

Q. And you agreed to this request
after you had discussed it with the Minister?

A. That is right, and I no already
[illegible] accuse.

Q. Now, at least at this time or
the proceedings you had in mind only one
ground for your motion?

A. Yes, the two convictions.

Q. [illegible]

operations or moving without permission?

A. No, we based it on the two convictions.

Q. On the 16th of June you wrote a memorandum to the Minister dealing with your decision to hold the matter pending the appeal of the convictions.

A. Yes; perhaps I had overlooked the matter of the removal of the premises from one place to another without consent and also the matters mentioned in Inspector Walker's report.

Q. In any event you picked that up again on December 22nd, 1961?

A. That is right, and the charter was cancelled on the basis of moving without permission after the appeal had been quashed.

THE COMMISSIONER: You mean after the conviction had been quashed?

A. That is right, after the conviction had been quashed, sir.

MR. ESTEY: Q. It doesn't appear in the file as to what brought this back to light again at the end of the year. Do you have any recollection as to that?

A. Yes, the appeal was not disposed of until December and I mentioned it to the Minister and told him it had been disposed of and brought to his attention the fact that the

convictions on drying alibis unreliable?

A. No, we based it on the two convictions.

Q. On the 10th of June you wrote a memorandum to the Minister dealing with your decision to hold the matter pending the appeal of the convictions.

A. Yes; perhaps I had overlooked the matter of the removal of the prisoners from one place to another without consent and also the matters mentioned in Koppesker Valley's report.

Q. In any event you picked right up again on December 22nd, 1906?

A. That is right, and the charges was cancelled on the basis of moving without permission after the appeal had been quashed.

THE CONSTABLE: You mean after the convictions had been quashed?

A. That is right, after the conviction had been quashed, etc.

MR. HANNA: Q. It doesn't appear in the file as to what brought this back to light again at the end of the year. Do you have any recollection as to that?

A. Yes, the appeal was not disposed of until December and I mentioned it to the Minister and told him it had been disposed of and brought to his attention the fact that the

club, notwithstanding that the conviction had been quashed, had moved without consent and that was the grounds for the cancellation.

Q. The effect of the memorandum to the Minister -- in fact, it is not a memorandum to the Minister, it is a memorandum to the file?

A. It is December 22nd, yes.

Q. In the very concluding part what do you say?

A. It is to leave the matter with him as to what action to take.

Q. Shortly, what transpired after that?

A. I sent a letter to the club advising the letters patent would be cancelled on the basis the club had moved without consent.

Q. You had a hearing and circulated a transcript of the hearing?

A. Yes.

Q. And you summarized the transcript for the Minister?

A. Yes.

Q. And that was by reason of their violation of Section 291 prohibiting moving the premises of the club?

A. Yes, I think that was the first one we cancelled on that basis. Club 21 was

[illegible]

[illegible]

[illegible]

Q. The extent of the improvement to the Minister -- in fact, it is not a [illegible] MILLWOOD, is it a [illegible] to the City?

A. It [illegible], yes.

Q. In the very something year which do you say?

A. It is to leave the matter with him as to what action to take.

Q. Directly, when transpired after [illegible]?

A. I sent a letter to the City advising the letter proper would be [illegible] [illegible] the [illegible] [illegible] consent.

Q. You had a hearing and discussed a [illegible] of the hearing?

A. Yes.

Q. And you [illegible] the [illegible] [illegible]?

A. Yes.

Q. And that was by reason of their violation of Section 221 prohibiting [illegible] the premises of the City?

A. Yes, I think that was the [illegible] one we [illegible] on that [illegible]. [illegible] it was

too, I think. I forget which was before but that was one of them.

Q. There is a note on the file of April 12th, 1956, in which Mr. Margolian advised you an order had been asked for setting aside the notice of cancellation?

A. What is the date of that?

Q. It is a memorandum of April 12th, 1962.

A. Yes, after the order had been made cancelling the charter an appeal was made to Weekly Court to set aside this and I think they proceeded by way of certiorà and I handed it to Mr. Margolian and the trial judge upheld the order and dismissed the application.

Q. That disposes of that club. The effect of all this is you received your adverse report from the police in 1961 and it was cancelled in March, 1962?

A. Yes.

THE COMMISSIONER: No, just a minute, it was December 22nd, 1961.

THE WITNESS: I wrote to the club on April 22nd and the cancellation order here was March 6th, 1962.

MR. ESTEY: Q. It is effective in April?

A. Yes.

Q. You make the order retroactive

too, I think. I forgot which was before and which was one of them.

Q. There is a note on the file of April 12th, 1921, in which Mr. Morrison, [illegible] Assistant Deputy Minister of Immigration, [illegible]

A. What is the date of that?

Q. It is a memorandum of April 12th, 1921.

A. Yes, after the order had been made cancelling the charter an appeal was made to Ottawa [illegible] I think they proceeded by way of certiorari and I handed it to Mr. Macpherson and the trial Judge quashed the order and dismissed the application.

Q. Have cabpoken of that club. The effect of all this is you received some adverse report from the police in April and it was cancelled in March, 1921?

A. Yes.

THE COMMISSIONER: No, June 8 thereof, it was December 22nd, 1921.

MR. [illegible]: I move to the club on April 22nd and the cancellation order here was June 8th, 1921.

MR. MCTAV: Q. It is effective in April?

A. Yes.

Q. [illegible]

so the club can wind up its affairs?

A. That is right, we give them a period of about three weeks.

Q. Now, very briefly I would like to turn your attention to the Parthenon Club, file No. C-54322.

THE COMMISSIONER: Wheredo we find that?

MR. ESTEY: I do not think this one appears. It is in the supplement at page 33 of the brief.

Q. This club illustrates the difficulties you were faced with when you were advised of gambling after the first report of a conviction. This club was incorporated in December, 1946?

A. Yes, December 5th, 1946.

Q. And in 1950 on June 29th you received returns for 1947, 1948, 1949 and 1950?

A. Yes.

Q. They were received on the 29th of June, 1950?

A. Yes, that is true.

Q. Then we have the first police report dated the 11th of May, 1962.

THE COMMISSIONER: What police department?

MR. ESTEY: This is the Morality Bureau of the Toronto Metro Police, Deputy Chief Elliott, and this reports to you the conviction

on Sat. [illegible] in [illegible]?

A. That is right, we give them a period of [illegible].

Q. Now, very briefly I would like to turn your attention to the Parkdale Club, [illegible].

THE COMMISSIONER: Proceed we find [illegible]?

Mr. KERRY: I do not think this one appears. It is in the supplement at page 32 of the brief.

Q. This club illustrates the difficulties you were faced with when you were advised of gambling after the first report of a conviction. This club was [illegible] in [illegible], 1941.

A. Yes, December 5th, 1941.

Q. And in 1940 on June 25th you [illegible] 24th, 1941, [illegible] [illegible].

A. Yes.

Q. They were received on the [illegible] of June, 1940?

A. Yes, that is true.

Q. Then we have the first police report dated the 11th of May, 1942.

THE COMMISSIONER: What police department?

Mr. KERRY: This is the Morality Bureau of the Toronto Metro Police, Deputy Chief Pilcow, and this reports to you the conviction

of the club steward in May, 1962, and it refers to earlier correspondence I cannot find on the file.

A. This is a report of May 1st, 1962?

Q. That is right. In any event, this is the police report of a conviction?

A. Yes. By the way, that first report is on file.

Q. What is the date of it?

A. February 22nd, 1962.

Q. What was the effect of that report?

A. It is a letter from Acting Chief Kerr to myself attaching a copy of a report. It is a ten page report.

Q. Don't read that. Does it recommend cancellation at the end?

A. It says, "In view of the fore-
"going it is strongly recommended
"these findings be forwarded to the
"Provincial Secretary with a view
"to cancelling the charter."

Q. What action did you take?

A. I referred it to Mr. Whiteside, one of our lawyers, for analysis and he wrote me on March 6th and he went up after reviewing the report on the file and said that it would be advisable to have a hearing before action was taken.

Q. Did you hold a hearing?

of the 6th August in May, 1942, and in return to earlier correspondence I cannot find on the file.

A. This is a report of my last, Sir?

Q. That is right. In any event, this is the police report of a convictation?

A. Yes. By the way, that latest report is on file.

Q. What is the date of it?

A. [illegible]

Q. What was the effect of that report?

A. It is a letter from [illegible] asking to which attaching a copy of a report.

Q. Don't read that. Does it recommend cancellation at the end?

A. It says, "In view of the fore-
going it is strongly recommended
"these findings be forwarded to the
"Provincial Secretary with a view
"to cancelling the character."

Q. What action did you take?

A. I referred it to Mr. Whitney, one of our lawyers, for analysis and he wrote me on March 6th and he sums up after reviewing the report on the file and said that it would be advisable to have a hearing before action was taken.

Q. Did you hold a hearing?

A. I wrote to Mr. Yaremko on March 13, 1962, saying that we were in receipt of a report recommending the cancellation of the charter. From the police report it would appear gaming had taken place on the premises. I said I would be pleased to discuss it with him at his convenience.

Q. Did you hold a hearing as a result of that?

A. The memo from the Minister is: "Commence cancellation proceedings".

Q. What is the date of that?

A. That is the same date.

Q. The 13th of March, 1962?

A. Yes.

Q. What transpired then?

A. I then wrote to Mr. Lavine pointing out the alleged grounds were gaming and suggested that he look for any other grounds that might occur to him in looking over the report. I wrote the Club later on March 16, 1962, advising them that the charter would be cancelled on forfeiture of powers and illegal gaming activities. That was on March 16th. Then I received a letter from the solicitors for the club on March 22nd in which they said their client had been charged and the matter was coming up in Police Court on April 2nd and asked

[illegible]

A. I have no idea. There is [illegible] 1908, saying that we were in receipt of a report recommending the cancellation of the charter. From the police report it would appear [illegible] in the province. I said I would be pleased to discuss it with him at his convenience.

Q. Did you hold a hearing as a result of that?

A. The memo from the Minister is: "[illegible]".

Q. [illegible]

A. That is the date.

Q. [illegible]

A. Yes.

Q. [illegible]

A. [illegible] suggested that he look for any other grounds that might occur to him in looking over the report. [illegible] would be convicted on indictment of [illegible] and illegal gaming activities. This was on March 10th. Then I received a letter from the solicitors for the club on March 22nd in which they said that all [illegible] had been charged and the matter was coming up in Police Court on April 2nd and asked

to have the matter adjourned until the courts had adjudicated on it. I wrote a memorandum to the Minister on March 28th, 1962.

Q. What date?

A. March 28th, 1962, sending on a copy of the solicitor's letter and asking his direction as to whether we should proceed or wait until the matter had been adjudicated upon.

Q. In the end I take it you acquiesced in the request that the cancellation proceedings be deferred?

A. Yes, that is true. And the matter proceeded by a police report on May 11th in which there apparently was a conviction of James Marmon.

Q. Isn't it Bazors?

DD/3

A. Yes, it is Bazors. He was convicted on May 10th of keeping a common gaming house.

Q. And there was a request to further delay the hearings pending the hearing of an appeal?

A. Yes.

Q. So I take it until June, 1962, the matter was still in abeyance?

A. Yes, and I brought the report to the attention of the Minister who said to set a date for hearing. I don't know just

proceeded

what his words were. I wrote a memo to the Minister enclosing this report and asked his permission to proceed with cancellation. There is a note from the Minister, "Proceed to set a date for hearing".

Q. In this case did you carry on with your hearings without waiting for the appeal?

A. We hadn't heard at that point of the appeal. We had just been advised of the conviction. Then I wrote to the solicitors and set a date for the hearing, referring to the convictions, and said that those grounds should be considered in addition to the grounds set forth in my first letter.

Q. At this stage you followed the same procedure as before, pending the appeal and this continued until the 14th of August, 1962, when you received a further police report?

A. Yes. I advised Chief Mackey that when the appeal was disposed of we would have a hearing and then we received a further police report on January 13th, 1962, attaching a copy of the report from Inspector Thurston. He reports in effect that on three occasions of his visit gambling was evident and he concludes by recommending

immediate cancellation.

Q. No, I am speaking of the report of June 13th, 1962.

THE COMMISSIONER: By that date the appeal had not been disposed of?

A. No, it had not, my lord. Then I wrote to the Minister on July 3rd.

MR. ESTEY: I was talking about the police report of August 13th.

THE COMMISSIONER: He said there was one before that.

A. It is a short report.

THE COMMISSIONER: Q. You sent a memo to the Minister?

A. Yes, on July 3rd, in which I say that two persons have been convicted and the convictions were being appealed. I also advised Chief Mackey and asked if the club was still operating. I am sorry, my lord, this report of January 13th was in response to my enquiry as to whether the club was operating, and he said it was.

Q. And you had an exchange with the Attorney General's Department?

A. Yes.

Q. And you put the club on notice that if they continued to operate you would cancel?

A. Yes, on July 5th.

[illegible]

Q. No, I am speaking of the report of [illegible], 1904.

THE CHAIRMAN: By what date the appeal had not been disposed of?

A. No, it had not, or later. That I wrote to the Minister on July 3rd.

MR. KEMP: I was talking about the police report of August 1st.

THE CHAIRMAN: He said there was [illegible] here.

A. It is a minor report.

[illegible]: A. [illegible] [illegible]

A. Yes, on July 3rd, in which I say that two persons have been convicted and the convictions were being appealed. I also advised Chief Hickey and asked if the club was really operating. I am sorry, my lord, this report of January 13th was in response to my enquiry as to whether the club was operating, and he said it was.

Q. And you had an exchange with the [illegible]?

A. Yes.

Q. And you put the club on notice that if they continued to operate you would [illegible]?

A. Yes, on July 3rd.

Q. That takes me down to Thurston's report of August 13th?

A. Yes.

Q. This is really the third police report?

A. Yes.

Q. It is rather long and I do not suggest you read it, but the upshot of that was that you could see almost at a glance there was gambling going on and they went through the motions of putting up a sign, "You must not gamble here", which the Inspector says was nothing but an insult to one's intelligence. Do you see that in the second last paragraph?

A. Yes, here it is.

Q. Would you read the last paragraph?

A. Yes.

"It is respectfully requested "that the aforementioned information "be forwarded to the Provincial "Secretary for immediate cancellation "of the charter."

Q. What did you do with that report?

A. On August 17th, 1962, the day after it was received, I referred it to the Minister.

Q. Finally, I think the last entry on the file was August 25th, 1962, with three

Q. That taken me down to Thurston's report of August 1952?

A. Yes.

Q. This is really the third police report?

A. Yes.

Q. It is rather long and I do not suppose you read it, but the gist of this was that you could see almost at a glance where the [illegible] in [illegible] through the motions of putting up a sign, "You must not go this here", when the inspector says was nothing but an insult to one's intelligence. Do you see that in the second last paragraph?

A. Yes, that is so.

Q. Have you read the last paragraph?

A. Yes.

"It is consequently regrettable "that the aforementioned interaction "be referred to the Commissioner "Commanding the Gendarmerie "of the charter."

Q. What did you do with that report?

A. On August 17th, 1952, the day after it was received, I referred it to the [illegible].

Q. Finally, I think the last court [illegible]

suggested grounds and a memorandum from the Minister?

A. Yes, advising three suggested grounds, convictions of illegal gaming and disregard of the Department's orders to cease operation and any other possible grounds.

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EE/FTP/1

Q. What happened after that?

A. And then I wrote ---

THE COMMISSIONER: Is that after the hearing?

A. No, this -- yes, then I wrote to -- the letter was framed up in the Department and then I fixed a date for a hearing for October 12th. I wrote on September 25th fixing a date of the hearing for October 12th.

MR. ESTEY: Q. Has the appeal been disposed of?

A. Not that I know of, Mr.Estey.

Q. This is a reversal now, is it, of the policy that we had in the club this morning where you held it up pending the disposition of the appeal?

A. Well, the policy, as I said earlier this afternoon, our policy has always been, if there is an appeal, not to proceed, my lord, with the cancellation hearing or cancellation proceedings until the appeal is disposed of. This is a new procedure that has just been followed in these three clubs.

Q. We had some short debate this morning on whether or not you should not forfeit anyway if forfeiture is there, regardless of criminal proceedings. I take it that in the case of Club Parthenon that is

Q. Was that [illegible]?

A. And then I wrote ---

THE COMMISSIONER: Do that after the meeting?

A. No, this -- yes, then I wrote to -- the letter was issued by in the department and then I fixed a date for a hearing for October 12th. I wrote on September 25th fixing a date of the hearing for October 27th.

MR. MOTLY: Q. Has the appeal been disposed of?

A. [illegible]

Q. This is a reversal now, is it, of the policy that we had in the club this morning where you held it up pending the disposition of the appeal?

A. Well, the policy, as I said earlier this afternoon, our policy has always been, if there is an appeal, not to proceed, my lord, with the conciliation hearing or conciliation proceedings until the appeal is disposed of. This is a new procedure that has just been followed in these three cases.

Q. We had some short debate this morning on whether or not you should not forbid anyway if forfeiture is there, [illegible] it that in the case of Club Secretaries that is

in fact what the Department was deciding to do?

A. Well, to have a hearing to decide on those grounds that are mentioned.

THE COMMISSIONER: That is, regardless of whether the appeal is disposed of or not?

EE/2 A. That is true, yes.

MR. ESTEY: Q. Mr. Cudney, I now turn to the last club ---

THE COMMISSIONER: Just a moment. Now would be an appropriate time to enquire why they treated the matter in that way, which is in contrast to the policy or procedure adopted in earlier cases?

A. I can't say that, my lord. These reports were submitted to my Minister as they came in and, at his direction, I wrote the Attorney General's Department.

Q. Was there any discussion in the Department with respect to the adoption of a new policy?

A. No, there was not.

Q. All right.

A. I mean, it would not, my lord, to my mind -- at least, I can't recall if it was announced as a new policy at all. Whether it was to be policy generally now as a policy, I cannot recall that it was mentioned.

Q. All right.

In fact was the Department was deciding to by

A. Well, to have a hearing to

[illegible] -- [illegible] [illegible] [illegible].

THE COMMISSIONER: That is, regardless of whether the appeal is disposed of or no?

A. That is true, yes.

MR. MURRAY: Q. Mr. Cudney, I now turn to the last club ---

[illegible]: [illegible] [illegible], [illegible] would be an appropriate time to enquire why they treated the matter in that way, which is in contrast to the policy or procedure adopted in earlier cases?

A. I can't say that, my lord. These reports were submitted to my predecessor as they came in and, at his direction, I wrote [illegible] [illegible].

Q. Was there any discussion in the Department with respect to the adoption of a new policy?

A. No, there was not.

Q. All right.

A. I mean, it would not, my lord, to my mind -- at least, I can't recall if it was announced as a new policy at all. Whether it was to be policy generally now as a policy, I cannot recall that it was [illegible].

Q. All right.

A. It might have been but I can't remember that it was.

MR. ESTEY: Q. The next club is the Sun Sun, File 58755.

A. There is one thing I may say, my lord, in respect to these three clubs. There has been a lot of subsequent police representations that has not been followed in the case of others. I mean, there have been a number of police reports subsequent, whether that had anything to do with it.

THE COMMISSIONER:

Q. The three here that you speak about are the Parthenon ---

A. The Parthenon, Atlas and Arlington, my lord.

MR. ESTEY: Parthenon, Atlas ---

A. And Arlington.

Q. Those are clubs where there are appeals, where there are parallel proceedings?

A. Parallel proceedings, yes.

THE COMMISSIONER: No.

A. Well, except ---

Q. In two of them they did not proceed pending their appeal; in the Parthenon they did proceed pending their appeal.

MR. ESTEY: I mean, they are all cases of criminal proceedings down this avenue and either actual or threatened proceedings under the Corporations Act on a parallel.

A. It might have been but I can't remember that it was.

MR. MERRY: Q. The next club is the Sun Sun, Mile 5?

A. There is one thing I may say, my lord, in respect to these three clubs. There has been a lot of subsequent police representations that has not been followed in the case of others. I mean, there have been a number of police reports subsequently whether that had anything to do with it.

Q. [illegible]

A. The Pavilion, Aklan and Antipolo, my lord.

MR. MERRY: [illegible] ---

A. [illegible]

Q. Those are clubs where there are [illegible]

A. Pure jail proceedings, yes.

THE COMMISSIONER: Q.

A. Well, except ---

Q. In two of them they did not proceed pending their appeal; in the Pavilion they did proceed pending their appeal.

MR. MERRY: I mean, they are all cases of criminal proceedings down this avenue and either actual or threatened proceedings under the Corporations Act on a parallel.

THE COMMISSIONER: That is right.

MR. ESTEY: Two they held up and one the Department went ahead, is that correct?

A. No, they are all three parallel proceedings. The grounds -- I think in Arlington there is no mention the ground being illegal gaming, because subsequent -- I mean in the other two there has been subsequent evidence there from the police reports of the illegal gaming. This is apart from the facts upon which the conviction was based, but we did not -- I think it is in Arlington -- we did not refer in the grounds to illegal gaming.

Q. No.

A. But we did in the other two, and I think we -- there are two grounds common to the whole three.

THE COMMISSIONER: But this is the first instance in which you proceeded pending an appeal?

A. That is true, my lord.

MR. ESTEY: Q. I take it from what you said and from what you have read from the file, that this policy or decision by the Department is really brought about by the circumstances of the repeated use of the charter for what the Department considered to be wrongful purposes, and that rather than

THE COMMISSIONER: That is right.

MR. MURRY: Was they held up as one the Washington case, in any manner?

A. No, they are all three parallel proceedings. The grounds -- I think in Kingman there is an element of the general being illegal zoning, because subsequent -- I mean in the case we have been by most [illegible] Commission policy [illegible] the library [illegible]. But it apart from the fact upon which the convictation was based, but we did not -- I think it is in Arlington -- we did not refer in the [illegible] library [illegible].

Q. No.

A. But we did in the other two, and I think we -- there are two grounds common to the [illegible].

THE COMMISSIONER: But this is the first instance in which you proceeded penalty, is [illegible]?

A. That is true, my lord.

MR. MURRY: Q. I take it from what you said and from what you have read from the file, that this policy of cessation by the department is really brought about by the circumstances of the repeated use of the charter for what the department considered to be illegal purposes, and [illegible]

allow this to continue pending appeal, you took the other route of trying to bring the charter to an end?

A. For repeated use, you see, Mr. Estey, of the charter for ---

Q. Well, you have got four police reports on this club?

A. Well, that could have been what prompted it. I mean, the fact that there have been a number of police reports that have come in -- I think it is the Atlas, yes, the subsequent number, at least more than one, anyway, subsequent to the first report on which we proceeded to cancel.

Q. The Atlas had four; Parthenon, depends how you count them, but I think four also. Now, if you cannot add anything further to the reasoning of why you changed or why you adopted that course in the Parthenon, I would like to direct your attention briefly to the Sun Sun Social Club.

MR. WILSON: That is in the brief at 33, 79 and Appendix N at 26.

MR. ESTEY: Q. This is a case of the club wishing to move its headquarters; permission denied, so the club is inoperative without a base, do you remember that?

A. Yes, that is the Sun Sun Club

allow this to continue pending appeal, you see the other route of trying to bring the character to an end?

A. For repeated use, you see, Mr. Levy, of the character for ---

Q. Well, you have got four police reports on this only?

A. Well, that could have been what prompted it. I mean, the fact that there have been a number of police reports that have come in -- I think it is the Atlas, you, the [illegible], [illegible], [illegible] one, anyway, subsequent to the first report on which we proceeded to cancel.

Q. The Atlas had four; Parliament depends how you count them, but I think four also. Now, if you cannot adequately answer to the reasoning of why you changed or why you adopted that course in the Parliament, I would like to direct your attention merely to the Sun Sun Social Club.

Mr. MORGAN: That is in the order as 35, 79 and Appendix H at 26.

Mr. LEVY: Q. This is a case of the club trying to move into headquarters; permission denied, so the club is inoperative without a name, do you remember that?

A. Yes, that is the Sun Sun Club

incorporated 1941; premises limited to 92 Elizabeth Street.

Q. In passing through to your more important developments later, I see that again we have the annual returns for the years 1950 to 1955 inclusive being filed in 1955?

A. Well, the 1950 return was filed in 1950.

Q. What about 1951, was that not ---

A. 1951 was filed in 1955; the same with 1952; the same with 1953; the same with 1954; and 1955 in 1955.

Q. The police reports at the time of the incorporatin, Mr. Cudney, I see the Metropolitan Toronto Police strongly recommending refusal of the charter as the premises had been convicted. I presume that is paraphrasing and there has been convictions on the premises, and two of the persons mentioned in the application were obvious fronts for gambling interests. Is that a fair summary of Chief Chisholm's report of February 1st, 1949?

A. Yes, that seems to be, that there has been a number of convictions that have occurred on the premises.

Q. I see no indication as to whether or not you recommended for or against this

Intoxicating Liquor Licensed on Ex Kilmarnock Street.

Q. Do you know anything of your own knowledge of the annual revenue for the years 1920 to 1925 inclusive being filled in 1925?

A. Well, the 1920 revenue was filled in 1920.

Q. What about 1921, was that not ---

A. 1921 was filled in 1921; the same also with the 1922 and 1923 and 1924 and 1925 were also filled in 1925.

Q. The police reports at the time of the incorporation, Mr. Cadman, I see the recommending refusal of the character as the premises had been convicted. I press the that is paragraphing and there has been convictions on the premises, and two of the persons mentioned in the application were obvious frauds for securing incorporation. Is that your opinion after obtaining reports of Security Inc. 1925?

A. Yes, that seems to be, when there has been a number of convictions that have occurred on the premises.

Q. Is you in Australia or another or not for recommending for or against the

charter, do you remember?

MR. WILSON: That is the view of the O.P.P.?

THE COMMISSIONER: No, Metro Police strongly recommended against the granting of the charter on the ground of conviction on the premises.

THE WITNESS: Conviction on the premises.

THE COMMISSIONER: And what? And some of the applicants were fronts for other persons?

A. Yes. I will just look at the applicants, my lord. Well, it was not the applicants. There was another person who was connected with the club or who would be connected with the club who was convicted. I don't see that -- it says here that the applicants are three persons and I do not see in their reports that they appear to have any ---

MR. ESTEY: Q. Chief Chisholm says that the name -- I can't read them though I would rather you read them because I can't be sure I am right -- were obvious fronts for gambling interests. Does it name the people?

A. It names Quan Choe, Bing Chu and Quan Chuen, and these are the three applicants and he does not mention here that they have any conviction.

MR. WILSON: That is the view of the O.P.P.?

THE COMMISSIONER: No, were police officers recommended against the granting of the licence to the clubs at Cornwall, the premises.

MR. WILSON: Certainly to the premises.

THE COMMISSIONER: And what? And some of the applicants were fronts for other persons?

A. Yes. I will just look at the applicants, my lord. Well, it was not the applicants. There was another person who was connected with the club or who would be connected with the club who was convicted. I don't see that -- it says here that the applicants are three persons and I do not see in their reports that they appear to have any ---

MR. [illegible]: Q. [illegible] I would rather you read them because I can't be sure I am right -- more obvious fronts for gambling interests. Does it name the people?

A. It names Juan Otero, being Ona and Juan Canen, and these are the three applicants and he does not mention here that they are [illegible].

THE COMMISSIONER: No, no.

MR. ESTEY: Q. Would you read to his lordship this paragraph?

A. Yes, he says:

"In view of the statements made by "Quan Chuen and Bing Chu . . ." -- those are two of the applicants --

" . . . it would appear that these "individuals are being used as "mere fronts and were chosen for "their apparent good character "in order to obtain a charter to "enable the Chinese gambling "fraternity to carry on their "illegal activities under the "protection of a provincial "charter."

Q. Now, in like circumstances, in the Spadina Social and Card Club ---

THE COMMISSIONER: Just a moment. Why not clean up this old Sun Sun Social Club and then you can compare.

MR. ESTEY: All right.

THE COMMISSIONER: This report is from Metro. Did the O.P.P. make a report?

A. Yes, I have that here, my lord. The O.P.P. have a short report in which they say:

"The three petitioners have no criminal "or gaming house records with the police

[illegible]: Yes, Sir.

MR. MURPHY: Q. Would you read to his lordship the paragraph:

A. Yes, he says:

"The view of the Association [illegible]

"Quan Chuen and Ming Chu . . . " --

[illegible] are the [illegible] --

" . . . It would appear that these

"individuals are being used as

"[illegible] but have evidence [illegible]

"their apparent good character

"in order to obtain a charter to

"[illegible]

"Incidently to carry on their

"illegal activities under the

"protection of a provincial

"charter".

Q. Now, in like circumstances, in the Quadra Social and Good Club ---

THE COMMISSIONER: Just a moment. Why not clean up this old Man Sen Social Club and then you can compare.

MR. MURPHY: All right.

THE COMMISSIONER: Have reports in from there. Did the G.P.I. make a report?

A. Yes, I have that here, my lord. The G.P.I. have a short report in which they say:

"The three premises have no criminal

"or gaming house records with the police

"forces."

At that time, my lord, at first we were only asking whether the applicants had any criminal record, and this is in 1949. Our practice was different after 1950. Then I can't say, I can't remember -- of course, my practice, as I mentioned before, has always been to take an adverse report up with my Minister before it would be granted, unless it was -- or else turn it down myself. If I didn't think there was sufficient, or there was any doubt I would take it up with the Minister. I don't recall any case where I hadn't. That has been my general practice, my lord, but I can't remember this particular case.

Q. Well, you said something a moment ago that I would like to get clarified. You say up until 1950 you only asked the different police organizations for advice as to whether or not any of the applicants had criminal records?

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A. Had criminal records, especially in respect to the operation of a gaming house.

Q. Yes. In 1950 did you change that policy?

A. Yes, we changed the policy.

Q. So as to ask them what?

A. Well, asked them whether they had

"Thomas.

At that time, my lord, at first we were only asking whether the application had any criminal record, and this in 1969. On [illegible] I can't say, I can't remember -- of course, my practice, as I mentioned before, has always been to take an adverse report up with my Minister before it would be granted, [illegible] -- or into that I am myself. If I didn't think there was sufficient, or there was any doubt I would take it up with the Minister. I don't recall any case where I hadn't. That has been my general practice, my lord, but I can't remember this particular case.

Q. Well, you said something a moment ago that I would like to get clarified. You say up until 1969 you only asked the different police organizations for advice as to whether or not any of the applicants had criminal records?

A. [illegible] in respect to the operation of a gaming house.

Q. Yes. In 1969 did you change that policy?

A. Yes, we changed the policy.

Q. Do as to ask them why?

A. Well, asked them whether they had

any objection to the incorporation.

Q. Leaving the matter more or less wide open?

A. Yes. Then we have changed it back in the summer of 1961 to enquire whether the applicants have any records with respect to gaming convictions, and the view of the police with respect to the premises from a policing point of view.

Q. Just a moment. I want to get this clear. Up until 1950 you only referred to the police for the purpose of obtaining from them whether any of the applicants had criminal records, particularly for gaming?

A. That is true, my lord.

Q. Then in 1950 you changed that policy?

A. Yes.

Q. And you referred it to the police, and did you ask them under this new policy if they had any objection. Is that the way you put it?

A. Yes, "Have you any objection to the incorporation?" Actually, the memorandum that I wrote to the staff, my lord, in the summer of 1950, was expressed this way, that we should write to the police, I think it was, as to their views as to

any objection to the incorporation.

Q. Leaving the matter more or less wide open?

A. Yes. Then we have changed it back in the manner of 1921 to enquire whether the applicants have any records when respect to passing convictions, and the view of the police with respect to the premises from a policing point of view.

Q. Just a moment. I want to get this clear. Up until 1920 you only referred to the police for the purpose of obtaining from them whether any of the applicants had criminal records, particularly for conviction?

A. That is true, my lord.

Q. When in 1920 you changed your policy?

A. Yes.

Q. Did you referred it to the police, and did you use them under this new policy if they had any objection. Is that the way you put it?

A. Yes, "Have you any objection to the incorporation?" Actually, the memorandum that I wrote to the clerk, my lord, in the manner of 1920, was expressed this way, that we should write to the police. I think it was, as to their views as to

whether incorporation should be granted, and the view as to whether incorporation should be granted, but actually in practice it was just a matter of words. It meant the same thing. We would say at the end of a week, we would set out the facts of the application and enquire: Have you any objection to the granting of this incorporation?

It was found, I believe (that was part of the trouble in 1950 when the new policy was enacted) that it was not giving the police quite enough information, or at least the police rather claimed that just the records of the applicants themselves did not tell us too much. We wanted to get further advice as to whether they had any objection as to incorporation, any objection to the incorporation which would ---

MR. ESTEY: Q. At that time you also started to take ---

THE COMMISSIONER: Just a minute, Mr. Estey. Go ahead.

A. --- which would give us the full picture, rather than just in respect to the applicants, because the applicants might be men of straw, they might be fronts.

Q. But the mere fact that the Metro, for example, might say, "We don't think

whether incorporation should be granted, and the
[illegible] incorporation should be
granted, but actually in practice it was
just a matter of work. It meant the same
thing. We would say at the end of a week,
we would set out the terms of the
[illegible]
objection to the granting of this incorporation?

It was found, I believe (that was part
of the trouble in 1950 when the new policy
was enacted) that it was not giving the
[illegible]
the records of the applicants themselves
did not tell us too much. We wanted to
get further advice as to whether they had
any objection as to incorporation, any
objection to the incorporation which
would ---

Q. [illegible]
[illegible] to take ---

THE CHAIRMAN: Just a minute, Mr.
Macdonald. Go ahead.

A. --- which would give us the
full picture, rather than just in response to
[illegible]
be men of means, they might be [illegible].

Q. But the more I get that the
[illegible]

it wise to grant this charter", without giving you any reasons, would not help you very much?

A. No. They would give reasons, I think. I mean, they wouldn't just -- we have never had a report in which there wouldn't be reasons, I don't think at least.

Q. I see, that was the policy you put into effect in 1950, but I understood you to say that you changed that some time later?

A. I think it was in the summer of 1961 in which we now write to the police enquiring as to whether the applicants have any record, and their view of the premises from the policing point of view. That is mentioned in the brief, my lord.

MR. ESTEY: Q. I was going to say this policy of change in 1950 was perhaps not unconnected with the fact that you had at the same time inaugurated the policy of fixing the club to a specific address. I take it that it would follow that the police might be interested in reporting to you on the suitability of those premises?

A. Well, it was -- that was apparently the reason, I think, Mr. Estey, but I think the reason was that the idea was to obtain further information from the police.

it does to great this question, without giving [illegible] [illegible] [illegible]

Q. On everything?

A. On everything.

Q. Related to the club?

A. Yes.

Q. And their recommendation, so I take it that after that new policy you received a greater number of adverse reports than before that date in 1950?

A. A greater number of adverse reports than before 1950?

Q. Yes.

A. Yes, it depended. Sometimes the police even before 1950, while they were asked, would give us much fuller reports than just on the applicants, as appears in this Metro report, I mean, on the Sun Sun.

THE COMMISSIONER: Now, it will be one thing to get from the police such facts as they had knowledge of. It would be another to delegate to the police the decision as to whether the charter ought to be granted or not, because after all that was the responsibility of the Minister?

A. Oh, yes.

Q. No matter what the wording was, you were trying to get facts from the police?

A. That is right.

Q. On which the Minister would form his own opinion?

Q. Do everything.

Q. Related to the city?

Q. Yes.

Q. And their recommendation, so I take it then after that new policy you received a greater number of adverse reports than before that date in 1890?

A. A greater number of adverse reports than before?

Q. Yes.

A. Yes, it depended. Sometimes the police even before 1890, while they were armed, would give us much fuller reports than just on the applicants, as appears in this Metro report, I mean, on the Sun Run.

THE COMMISSIONER: Now, it will be one thing, to get from the police such facts as they had knowledge of. It would be another to delegate to the police the decision as to whether the character could be guaranteed or not, because after all that was the responsibility of the Commissioner?

A. Yes, yes.

Q. No matter what the wording was, you were trying to get facts from the police?

A. That is right.

Q. Because the decision rested with his own opinion?

A. That is right, to get the facts from the police on which we would form an opinion, and the idea was to get as many facts or as complete a picture as possible.

Q. All right.

A. That is why it was changed in 1950.

MR. ESTEY: Q. So that as to the Sun Sun Club we have a Metro Police report strongly recommending refusal, and we have an O.P.P. report saying there is no record of convictions against these people?

A. Yes, the Provincial Police confined their reply to our enquiry.

Q. In a somewhat similar situation in Spadina Social and Card Club, when you were faced with this rather strong (in that case) Provincial Police report, inferring that people were the front for others, you interviewed Mr. Slater and one other gentleman who were applicants. In this case, did you interview these two people who were said by the police to be fronts for gambling interests?

A. Not to my -- I might have. I can't remember this incorporation at all, Mr. Estey, any more than I do remember the Spadina.

Q. There is a memo on the file?

A. There is no memo here.

A. That is right, to get the issue from the police on which we would form an opinion, and the idea was to get as many issues as possible.

Q. All right.

Q. Was it now in contemplation that Mr. McTAY: Q. So that as to the Sun Run Club we have a Metro Police report unfavorably recommending renewal, and we have an O.P.P. report saying there is no record of criminal activity among these people?

A. Yes, the Provincial Police combined their reports in one document.

Q. Are you personally familiar with Spadina Social and Card Club, when you were faced with this rather strong (in that case) Provincial Police report, inferring that people were the front for others, you interviewed Mr. Slater and one other gentleman who were applicants. In this case, did you interview these two people who were said by the police to be fronts for gambling houses?

A. Not to my -- I might have. I can't remember this interposition at all.

Mr. Smith: Did you see that I'm [illegible] the Spadina.

Q. There is a memo on the later

A. There is no memo here.

Q. And you don't remember whether you recommended that the charter be refused and the Minister directed it to be issued, or just what happened?

A. No, I only know my general practice.

Q. Which you told us?

A. I can't remember, yes.

Q. So the next development then, I believe, Mr. Cudney, is a further police report from the Metropolitan Toronto Police, or the City Police, of 7th February, 1951, in which they recommend cancellation of the charter?

THE COMMISSIONER: On what grounds?

MR. ESTEY: On the grounds of convictions, a list of people in the report, I believe. I think four convictions there.

THE WITNESS: A letter dated February 7th, 1951, from Chief Chisholm to myself, enclosing the report of Inspector Lee and there are convictions.

MR. ESTEY: Q. Then as the result of receiving that, there is a memorandum in the file -- go ahead.

THE COMMISSIONER: Convictions on the premises?

A. Yes.

Q. Of gaming on the premises?

Q. And you don't remember whether you recommended that the chamber be reduced and the Minister directed it to be issued, or just what happened?

A. [illegible] was in general [illegible].

Q. Which you told us?

A. I don't remember, yes.

Q. So the next development then, [illegible] in which they recommend cancellation of the charges?

THE [illegible]: [illegible]

MR. KEITH: On the grounds of convictions, a list of people in the report, I believe.

I think four convictions there.

THE WITNESS: A letter dated February 7th, 1944, from [illegible] expressis [illegible], [illegible] the report of Inspector Lee and there are convictions.

MR. MERRY: Q. Then as the result of receiving that, there is a memorandum in the file -- go ahead.

THE COMMISSIONER: Convictions on the [illegible]?

A. Yes.

Q. Of [illegible] on the premises?

A. On the premises at 92 Elizabeth Street, my lord, for keeping a common gaming house, four persons are convicted.

MR. ESTEY: Q. Yes, I think it says there are thirty-two found-ins and four convicted?

A. Yes.

Q. You then advised the Chief that steps were being taken to cancel the charter, and on 15th February, 1951, there is a memorandum on the file dealing with a recommendation by the Provincial Secretary. Can you tell me what that is?

A. I advised the police and then I wrote to the club advising a conviction had been drawn to our attention and we were going to cancel the charter. Then in those days we cancelled the charter under the Act by order-in-council rather than by order of the Minister, and for an order-in-council this was a recommendation to the council that the charter be cancelled.

Q. Right, then did you proceed to cancellation?

THE COMMISSIONER: What date did you write the club?

A. I wrote the club on February 14th, 1951, and then it does not seem to proceed. Then there is a letter from me to T.B. Horkins,

A. On the premises of 23 Gladstone Street, my home, for keeping a common gaming house, for permitting.

Mr. BERRY: Q. You, I think it was about the 4th-5th February-last year, consulted?

A. Yes.

Q. You then advised the Chief that steps were being taken to cancel the charter, and on 15th February, 1921, there is a recommendation on the file dealing with a recommendation by the Provincial Secretary. Can you tell me what that is?

A. A letter the police had then, I wrote to the club advising a conviction had been drawn to our attention and we were going to cancel the charter. Then in three days we cancelled the charter under the Act by order-in-council rather than by order of the Minister, and for an order-in-council this was a recommendation to the council that the charter be cancelled.

Q. Right, then did you proceed to cancellation?

THE COMMISSIONER: What date did you make the claim?

A. I wrote the club on February 15th, 1921, and then it does not seem to proceed. Then there is a letter from me to T.S. Rankin,

"Re Sun Sun Club".

Q. Dated?

A. Dated February 22nd, 1951:

"Last week you spoke to me about "the Club, and I have withheld the "cancellation of the charter. I would "appreciate hearing from you as soon "as possible in this matter as I "cannot hold up the matter of the "cancellation too long."

Then there is a letter from T.B. Horkins.

Q. Dated?

A. Dated February 24th, 1951, addressed to me, and he says, acknowledging receipt of my letter:

"Regarding your Department "giving some thought to the cancellation "of the charter of the Sun Sun Social "Club, may I earnestly petition that "there be no cancellation of this "particular charter. This particular "club has never had a conviction "registered against it and there "has never been found any bona fide "complaint proved against this club. "It is true that on January 25th, "1951, they did keep a common gaming "house at 92 Elizabeth Street. "While this address is the address

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"Last week you spoke to me about
"the Club, and I have withheld the
"reconciliation of the charter. I would
"appreciate hearing from you as soon
"as possible in this matter as I
"cannot hold up the matter of the
"[illegible]."

Then there is a letter from T.B. Hopkins,

S. [illegible]

A. [illegible], 1921,

addressed to me, and he says, acknowledging receipt of my letter:

"[illegible]

"giving some thought to the reconciliation
"of the charter of the Sun Sun Social
"Club, may I earnestly petition that
"there be no reconciliation of this
"[illegible] Club has never had a conviction
"registered against it and there
"has never been found any bona fide
"[illegible] club.
"It is true that on January 29th,
"[illegible] house at 92 Kitchener Street.
"While this address is the address

"of the Sun Sun Social Club, nevertheless
"there are two parts to this building,
"an upstairs and downstairs, and the
"conviction was against four individuals
"and not against the entire premises;
"nor actually against 92 Elizabeth
"Street.

"Further with regard to the
"four individuals convicted, none of
"those four individuals were proven
"to be officers of the Sun Sun Club.
"One of the accused, Howman Fong
"had admittedly some connection with
"the Sun Sun Social Club, but the
"charge against him was dismissed,
"as were the charges against eight
"other accused. The four accused
"that were convicted were alleged
"to have been at gaming tables in
"the operation of games at these
"tables, and there is no proof that
"any of these men had any control
"over the premises whatsoever. As
"a matter of fact the convictions
"against these four men are presently
"under review by the Ontario Court
"of Appeal, and it is my firm
"belief and hope that the convictions
"against them will be quashed.

"of the Sun Sun Social Club, nevertheless
"there are two parts to this indictment,
"an upstairs and downstairs, and the
"evidence has spoken for themselves
"and we are limited to acting upon
"the probability upon it therefore
"guilty.

"Further with regard to the
"four individuals convicted, none of
"them ever actually were officers
"to be officers of the Sun Sun Club.
"One of the accused, Dawson Tong
"was privately and connected with
"the Sun Sun Social Club, but the
"charge against him was dismissed,
"as were the charges against eight
"other accused. The other accused
"who were convicted were alleged
"to have been as gaming tables in
"the operation of games at those
"tables, and there is no proof that
"any of these men had any control
"over the premises whatsoever. As
"a matter of fact the convictions
"against these four men are presently
"under review by the Ontario Court
"of Appeal, and it is my firm
"belief and hope that the convictions
"against them will be quashed.

"It was proved --- "

Will I go on?

MR. ESTEY: Q. Not unless you see something new and different ahead of you. I would suggest that we move on to find out whether you in fact agreed that you would take no steps until the appeal was dealt with?

A. He mentions here that it is under appeal.

Q. Yes, don't you on the 28th February write to him and say you are not going to proceed until it is dealt with?

A. I write to him on February 28th:

" . . . that you are appealing the "conviction. We will take no steps "until the appeal is disposed of."

Then I so advised Inspector Lee, and then I write to Inspector Lee on November 30th, 1931:

"From a conversation we had "some time ago, I seem to recall "your stating the conviction had been "quashed on appeal, but would "appreciate if you can confirm my "assumption in this regard."

There is a letter from Inspector Lee:

"With reference to your letter, "please be advised that Sergeant "Greerson was at the Court of Appeal

"It was proved ---"

WILL I do that.

MR. BERRY: Q. Not unless you see something

[illegible] in you. I simply

suggest that we move on to find out whether

you in fact agreed that you would take no

steps until the appeal was dealt with?

A. [illegible] Mr. Berry is

under oath.

Q. Yes, that's [illegible]

[illegible] to proceed until it is dealt with?

A. [illegible]

" . . . that you are appealing the

"conviction. We will take no steps

"until the appeal is disposed of."

[illegible]

[illegible]

"Upon a conversation we had

"some time ago, I seem to recall

"you stating the conviction had been

"quashed on appeal, but would

"appreciate if you can confirm my

"[illegible]."

There is a letter from Inspector Lee:

"With reference to your letter,

"please be advised that Sergeant

"Greenson was at the Court of Appeal

"and the conviction was quashed."

Then there is a letter to Horkins -- that was 1951. Then this jumped to 1955. Then I refer to the annual returns, so apparently it was quashed and I take it then nothing was done.

Q. It was quashed, and I was going to ask you if you knew whether there was any evidence in the trial indicating gambling which would allow you to proceed whether or not there had been a conviction?

A. I cannot remember this, Mr. Estey. It is eleven years ago.

Q. All right, what was your next contact from the police?

A. Actually the next contact was from me to the police. In 1959 it was brought to my attention that the club had moved the location of its head office, or the premises, from 92 Elizabeth Street, and the annual return was 14 Hagerman Street. I made enquiry of the police and enquired if the club had moved. The annual return was brought to my attention by the returns office.

THE COMMISSIONER: What year was that?

A. 1959, my lord, and I had the Metro Police, asked them if they would make enquiry to see if the club had moved. From

"and the conviction was quashed."

Then there is a letter to Hopkins -- that was [illegible]. [illegible] refer to the annual reunion, so apparently it was quashed and I take it then nothing was done.

Q. It was quashed, and I was going to ask you if you knew whether there was any evidence in the trial transcript concerning what really alleged you had arranged whether or not there had been a conviction?

A. I [illegible] THAT, Mr. Sain. It is eleven years ago.

Q. All right, what was your next contact from the police?

A. Actually the next contact was from me to the police. In 1929 it was brought to my attention that the club had moved the location of its head office, or the premises, from 32 Elizabeth Street, and the annual report was 14 Mercer Street. I made enquiry of the police and enquired if the club had moved. The annual report was brought to my attention by the returns office.

THE CONNETABLE: When year was that?

A. 1929, my lord, and I had the Metro Police, asked them if they would make enquiry to see if the club had moved. From

statements from persons at 14 Hagerman Street which I remember back now (it is more recent) it was an apartment at the back of a store on Hagerman Street, and some person there said it was the club. So I had a hearing, I sent out a cancellation letter and had a hearing in respect to the cancellation of the charter. I was away at the time. Mr. Lavine took the hearing and, reading over the evidence, when I talked with him it appeared there was not sufficient to cancel the charter. That was in 1959. There was a group of Chinese, it seemed from the evidence, meeting there, and the head office was there. The evidence was not sufficient to tie it in with the club as operating there.

Q. Then you had a police report February 22nd, 1960?

A. Yes. Then there is a police report on February 22nd, 1960.

THE COMMISSIONER: Metro?

A. Metro Police report,,Chief Mackey, and attaching a report from Inspector Walker. He refers to ---

MR. ESTEY: Q. In any case he recommends, the report, does it not, recommends cancellation as the club is not a bona fide organization?

A. Yes. I was just wondering.

[illegible] from [illegible] of [illegible] County which I remember back now (it is more recent) it was an appearance at the back of a store in [illegible] Street, [illegible] said it was the club. So I had a hearing, I was out a [illegible] [illegible] and had a hearing in respect to the cancellation of the charter. [illegible] Mr. Irvine took the hearing and, reading over the evidence, when I talked with him it appeared that [illegible] attributes to [illegible] the charter. That was in 1929. There was a group of Chinese, it seemed from the evidence, meeting there, and the head office was there. The evidence was not sufficient to tie it in with the club as operating [illegible].

Q. Then you had a police report [illegible] Mr. [illegible]

A. Yes. Then there is a police report on Mercury Band, 1900.

THE COMMISSIONER: Sorry?

A. [illegible], [illegible], and [illegible]; a report from Inspector Watson, to return to ---

Mr. [illegible]: Q. In any case in recommend, the report, does it not, recommend cancellation as the club is not a bona fide organization?

A. -- Yes. I was just mentioning.

This club applied for a supplementary. I don't know whether that was in connection with the supplementary.

Q. That is the following year, I think, Mr. Cudney?

A. Yes, that was the following year. Yes, that is true. He recommends cancellation.

Q. What did you do with that police report?

THE COMMISSIONER: On what grounds though?

A. "It is apparent that there is a "breach of the charter."

He says -- I said 1959. Now, this hearing that started, it was in the annual return of 1959, but this report that I read from Walker, this police report that you have here from Walker, is in reply to my enquiry of February 8th, 1960, where I wanted them to enquire to see if the club had ---

Q. Had moved?

A. Had moved, that istrue.

Q. I see.

A. And he said he recommended the cancellation and then, as I explained, my lord, I called a hearing.

Q. Well, he suggested that they had moved, I suppose?

A. That they had moved because they had interviewed, I think, people at the

This club applied for a supplementary. I don't have written notice in connection with the supplementary.

Q. Then in the following year, I think, Mr. Slaney?

A. Yes, that was the following year. Yes, that is true. He recommends cancellation.

Q. What did you do with that police report?

[illegible]

"breach of the charter."

[illegible] -- I will [illegible]. Now, with regard [illegible] stated, it was in the annual report of [illegible], but this report that I read from Walker, this police report that you have here from Walker, in in reply to my enquiry of February 3rd, 1924, where I wanted them to enquire to see if the club had ---

Q. Had moved?

A. Had moved, that letter.

Q. I see.

A. Had he said to recommend the cancellation and then, as I explained, my [illegible], I called a hearing.

Q. Well, he suggested that they had moved?

A. Then they had moved because they had incorporated, I think, people at the

premises.

Q. That is all right. Let us get on then. The evidence was not sufficient?

A. Was not sufficient.

MR. ESTEY: Q. I do not see any report on that here. What did you do in that case? Did you put a transcript in the file?

A. In those days we did not take a transcript of evidence. We have taken a transcript since January of 1960 of the evidence.

MR. WILSON: Before that.

MR. ESTEY: Q. Since January, 1960?

A. January, 1960.

Q. This is February or March of 1960.

A. I am sorry, there was a transcript of that evidence. Here it is.

Q. You have one. All right, let us get on. In any case, you found there was not enough ground there to cancel, so what happened next? The supplementary letters patent application I think is next, March 10, 1960. They wanted to move?

A. They wanted to move.

Q. To 121 Dundas?

A. They wanted to move from -- supplementary letters patent to move from 92 Elizabeth Street to 121 Dundas West, and the application was referred to the ---

premature.

Q. Then is all right. Let us get on then. The arguments were not sufficient?

A. Was not sufficient.

MR. BERRY: Q. I do not see any report on that here. When did you do in that cases and you put a transcript in the file?

A. In those days we did not take a transcript of evidence. We have taken a transcript since January of 1900 of the proceedings.

MR. VIDEON: Never mind.

MR. BERRY: Q. Also January, 1900?

A. January, 1900.

Q. Then is February or March of 1900.

A. I am sorry, I have not a transcript of that evidence. Here it is.

Q. You have one. All right, let us get on. In any case, you found there was not enough ground there to cancel, so what happened next? The Supreme Court in their decent application I think is next, March 30, 1900. They wanted to move:

A. They wanted to move.

Q. To 1st Dundas

A. They wanted to move from -- approximately between people to move from Middleboro Street to 1st Dundas Ward, and [illegible] ---

Q. Provincial Police?

A. And the Metro.

Q. And the Metro. The Provincial Police reported on March 30th and they recommended against the move, I think?

A. Yes, the Provincial Police.

THE COMMISSIONER: All right, did they recommend against the move?

A. Recommended against the move.

MR. ESTEY: Q. Then on May 9th we have Mr. Mackey's report, Chief Mackey's report in which he strongly recommends cancellation of the charter.

THE COMMISSIONER: On what grounds?

MR. ESTEY: Q. Would you follow that? I do not have the original of that report. "Mr. Chu admitted when questioned that the purpose of moving to 121 Dundas was there would be more business there." Do you see that?

A. Yes.

THE COMMISSIONER: That would be a good reason.

MR. ESTEY: Yes.

THE COMMISSIONER: He recommended cancellation?

A. Recommended cancellation.

Q. What next happened?

MR. ESTEY: There is an interesting thing

Q. Provincial Police?

A. And the Army.

Q. And the Army. The Provincial Police recommended against the move, I think?

A. Yes, the Provincial Police.

THE COMMISSIONER: All right, did they recommend against the move?

A. [illegible]

Mr. LEROY: Q. Then on May 9th we have Mr. Mooney's report, Chief Mooney's report in which he strongly recommends cancellation of the observer.

THE COMMISSIONER: On what grounds?

A. [illegible]: Q. Would you follow that?

I do not have the original of that report. "Mr. Chu arrived when questioned that the purpose of moving to 113 Yonge was there would be more business there." Do you see that?

A. Yes.

THE COMMISSIONER: That would be a good ground.

Mr. [illegible]: Yes.

THE COMMISSIONER: He recommended cancellation?

A. Recommended cancellation.

Q. What that report.

Mr. LEROY: There is an interesting point

in that report which will only take a moment to read. You will see further down:

"Harry K. Ong, in charge of the property "at 121, did not know the name of the "new club but only knew they were "trying to get a new charter as the "old one, Club 21, had been cancelled."

Do you see that? Club 21 we had this morning. It seems a long time ago, but Club 21 was a case where there was trafficking and moving the charter around.

THE COMMISSIONER: They weren't moving the Sun Sun.

MR. ESTEY: They overlapped because they go into -- Club 21 was in the premises and Sun Sun tried to move in when Club 21 was cancelled.

THE COMMISSIONER: I see.

MR. ESTEY: Q. What do you do after the two police reports come in, and one recommends refusal of the application and the other recommends cancellation of the charter?

RE/5 A. This police report was received on May 9th, 1961.

THE COMMISSIONER: That is Metro?

A. From Metro, my lord, and I see that Mr. T.H. Thomson wrote to Mr. Lavine (T.H. Thomson was a solicitor in the Department) and he said:

in that report which will only take a moment to read. You will see further down:

"Harry K. Ong, in charge of the property "at 121, did not know the name of the "trying to get a new charter as the "old one, Club 21, had been cancelled."

Do you see that? Club 21 we had this morning. It seems a long time ago, but Club 21 was a case where there was trafficking and moving the [illegible].

THE [illegible]: Trafficking [illegible] the Sun Sun.

MR. [illegible]: They overlooked [illegible] go into -- Club 21 was in the premises and Sun Sun tried to move in when Club 21 was cancelled.

THE CONTROLLER: I see.

MR. [illegible]: Q. What do you do after the two police reports come in, and one recommends refusal of the application and the other recommends a cancellation of the charter?

A. This police report was received on May 9th, 1951.

THE COMMISSIONER: That is the [illegible]

A. From Mexico, my lord, and I see that Mr. T.H. Thomson wrote to Mr. Levine (T.H. Thomson was a solicitor in the Department) are he said:

"I have now received replies from "the police in regard to the application "for supplementary letters patent."

And he refers to the Metro Police, the vigorous objections, and he refers to the Provincial Police not recommending.

MR. ESTEY: Q. Ultimately, May 25, 1961, was the memo Mr. Lavine to you dealing with this question of what to do with the recommendation?

A. Yes, on May 25th Mr. Lavine wrote to me bringing the reports to my attention.

Q. And you wrote a memorandum to the Minister?

A. To the Minister on June 12th.

Q. And you recommended cancellation?

A. "I have considered the reports "and would concur in the police "recommendation."

Yes, and I say:

"The club has not been operated on "Elizabeth Street for some years. "From the statements made to the "Metro Police, it appears that there "is a suggestion that the charter "has been purchased by another "group."

You see, this club, my lord, had not

"I have now received replies from
"the police in regard to the application
"for [illegible] licence [illegible]."

And he refers to the Metro Police, the vigorous
[illegible], and [illegible] the [illegible]
police and [illegible].

Mr. [illegible]: [illegible]
[illegible], [illegible] Mr. Lavine [illegible]
with this question of what to do with the
recommendation?

A. Yes, on May 25th Mr. Lavine
wrote to me bringing the report to my
attention.

Q. And you wrote a memorandum to
the [illegible]?

A. [illegible]

Q. And you recommended cancellation?

A. "I have considered the report
"and would concur in the police
"recommendation."

[illegible], and I say:

"The club has not been operated on
"Hillsboro Street for some years.
"Since the attention made to the
"[illegible], it appears [illegible]
"is a suggestion that the character
"[illegible]
"[illegible]."

You see, this club, my lord, has been

operated apparently for some years. The premises at 82 Elizabeth Street had either been torn down or turned to some other commercial purpose, and this charter had not been used - what did I say here? - for some years, and they had not operated as far as we knew at all. We couldn't seem to establish that they had been operating on Hagerman Street.

Q. Well, what happened with the recommendation for cancellation?

MR. WILSON: Where does that appear? How do you put it? What is your reference to the cancellation?

THE WITNESS: I think this report came back and the matter, in accordance with our practice, was referred to the police (this is my memory). In respect to the Metro, OPP reports, these reports are attached. I see the reports together with our file. Both recommend the supplementary letters patent be refused.

"I have considered these reports
"and in view of the information
"contained in the report I concur
"in the police recommendation."

MR. WILSON: Do you deal with the recommendation of cancellation?

THE WITNESS: No.

MR. WILSON: May I just ask him also what he had in his report?

MR. ESTEY: I know that and he read it.

THE COMMISSIONER: Something about the O.P.P. and the Metro recommending cancellation. Did they recommend cancellation or did they recommend against supplementary letters patent?

A. The O.P.P., my lord, recommended against the supplementary. The City Police recommended against the supplementary and the cancellation, and I say here:

"I concur in the police recommendation."

True, I previously have said here:

"Both reports recommend that supplementary "letters patent be refused. I have "considered these reports and I attach "the reports. I concur in the police "recommendation."

MR. ESTEY: Q. There is a rather peculiar sentence. Would you just read that sentence to the Commissioner?

A. "I have considered these reports "and inview of the information contained "in the report of the Metropolitan Police, "I concur in the police recommendation."

(Page 13220 follows)

MR. MILLER: The I guess was all the type was he had in his report.

MR. MOTLY: I know that and he read it.

THE COMMISSIONER: Possibly there was the O.P.P. and the Metro recommending cancellation. Did they recommend cancellation or did they

A. The O.P.P., my lord, recommended mandatory suspension. The City Police recommended against the suspension and the cancellation, and I say here:

"I concur in the police recommendation."

Then, I previously have said here:

"Letters patent be refused. I have "considered these reports and I accept "the reports. I concur in the police "recommendation."

MR. MOTLY: Q. There is a rather peculiar sentence. Would you just read that sentence to the Commissioner?

A. "I have considered these reports "and review of the information contained "in the report of the Metropolitan Police, "I concur in the police recommendation."

(Page 13020 follows)

FF/1/FAL

MR. ESTEY: Q. That is in your --

A. Yes, I concurred -- I may say, I concurred in the police recommendation insofar as the supplementary -- in not granting the supplementary. The matter of the cancellation, the club had not operated for some years; I wouldn't say I fully concurred in the cancellation. But, I concurred in the recommendation.

MR. WILSON: Those were the words he was trying to put in your mouth; they are not in the report.

MR. ESTEY: I am not trying to put anything in Mr. Cudney's mouth.

THE COMMISSIONER: The O.P.P. recommended against the move.

MR. ESTEY: That is all.

THE COMMISSIONER: Q. Metro recommended cancellation, as I had it originally in my notes; but, now it appears Metro recommended against the granting of the supplementary letters patent and also recommended cancellation?

A. And the cancellation.

Q. All right.

MR. ESTEY: Q. Mr. Cudney, the reason I ask the question that way, and I did not put anything in your mouth, is that you referred to the recommendation, singular, of Metro police and, then, you say you concur with the

MR. MOORE: Q. What is in your --

A. Yes, I concurred -- I may say, I concurred in the police recommendation insofar as the supplementary -- in not granting the supplementary. The matter of the cancellation, the club had not operated for some years; I wouldn't say I fully concurred in the cancellation. Pls. I misspoke in the recommendation.

MR. [illegible]: [illegible] was trying to put in your mouth; they are not in the report.

MR. MOORE: I am not trying to put anything in Mr. Gudney's mouth.

THE CHAIRMAN: The O.L.C. recommended against the move.

MR. MOORE: That is all.

THE CHAIRMAN: Q. Mr. [illegible] cancellation, as I had it originally in my notes; but, now it appears Metro recommended against the granting of the supplementary licences patent and also recommended cancellation?

A. And the cancellation.

Q. All right.

MR. [illegible]: Q. Mr. [illegible], I ask the question that way, and I did not put anything in your mouth, in that you referred to the recommendation, singular, of Metro police and, then, you say you concur with the

recommendation, singular, of Metro police. That is, at least, an ambiguous sentence and I wanted you to tell me whether you were thereby recommending that the charter be cancelled or not.

A. I would say it is on the two points in the Metropolitan TorontoPolice report. I was certainly recommending the supplementary be refused. In regard to the cancellation of the charter, I was in two minds about that, in that the club -- It wasn't that the club had been operating. There had been no -- it hadn't operated for some years. There had been no suspicion of illegal gaming on the premises because they hadn't any premises, they hadn't any operation. They wanted to use the charter to go somewhere else. I was in two minds on that.

THE COMMISSIONER: When you reported to the Minister were you recommending only against granting of supplementary letters patent? If you were of two minds on the other question, you could not very well have recommended with respect to the other.

A. No. This is not very well put, my lord.

Q. I know it is not, but I am asking you if you have a recollection of it.

A. My view was this, my lord: I was

recommendation, although, of course, politic.

That is, at least, an ambiguous sentence and I should ask you to tell us whether you were saying recommendation that had occurred but unrecorded or not.

A. I would say it is on the two points in the Metropolitan Bonneville report. I was specially [illegible] that [illegible] be reduced. In regard to the cancellation of the charter, I was in two minds some time, in that the club -- It wasn't that the club had been operating. There had been no -- it hadn't operated for some years. There had been no suspicion of illegal gaming on the premises because they hadn't any premises, they hadn't any operation. They wanted to use the charter to go somewhere else. I was in two minds on that.

Q. [illegible] to the Minister were you recommending only against granting of supplementary letters patent? If you were of two minds on the question, you could not very well have recommended with respect to the other.

A. No. This is not very well put, is it?

Q. I know it is not, but I am asking you if you have a recollection of it.

A. My view was this, my lord: I was

recommending, certainly, against the supplementaries being issued, going to those premises, in view of that report; but I wasn't fully recommending --

Q. You were leaving the other in abeyance, I suppose?

A. Yes.

MR. ESTEY: Q. I should have noticed this earlier. It appears from the transcript of the hearing you were away and Mr. Lavine conducted the hearing in March, 1960?

A. That is true.

Q. You have now got the club into the situation where it is authorized to operate at one address, which you think may be non-existent, and they want to go to another and they are refused. Now, what happened next?

MR. WILSON: On that Hagerman, Mr. Lavine never informed these people their original application for supplementary letters patent was refused.

THE COMMISSIONER: He never informed them of that?

MR. WILSON: The club was never advised of that. It came out at the hearing, I believe.

THE WITNESS: That the original application --

THE COMMISSIONER: That was the purpose of the hearing.

[illegible]

[illegible] necessarily, [illegible], regarded the supplementary being issued, going to those premises, in view of time's remoteness; but I wasn't fully [illegible]

Q. You were leaving the office in [illegible], I suppose?

A. Yes.

MR. BERRY: Q. I should have mentioned this earlier. It appears from the testimony of the hearing you were away and Mr. Levine [illegible] in Toronto, right?

A. That is true.

Q. You have now got the plan into the situation where it is authorized to operate at one address, which you think may be non-[illegible], you then have it go to [illegible] the [illegible].

MR. [illegible]: [illegible]

Having never informed three people which [illegible] [illegible] [illegible].

[illegible]

time of trial?

MR. MOSER: The plan was never advised of that. It came out at the hearing, I believe.

THE WITNESS: That the original application --

THE CHAIRMAN: That was the purpose of your hearing.

MR. WILSON: It appears they had never been informed of any refusal of their application to move.

THE COMMISSIONER: That is after the hearing.

MR. WILSON: There were two moves. It was said originally they had moved to Hagerman Street --

THE WITNESS: Yes.

MR. WILSON: -- which was the residence of one of the officers or directors; and later they wanted to move to 121 Dundas.

THE COMMISSIONER: 121 Dundas.

MR. ESTEY: All I can say is that the file does not have any application for supplementary letters patent regarding Hagerman Street. Nothing on the file.

A. No, they never applied for -- for their office to be at Hagerman Street.

THE COMMISSIONER: Q. You had a hearing and the evidence did not prove that they had moved to Hagerman?

A. No, that is true, my lord. That is true, my lord.

MR. ESTEY: Q. But the inquiry did relate to Hagerman and not to 1395 Yonge Street?

A. No, it related to 14 Hagerman.

Q. February the 8th, 1960, immediately before that hearing, you are asking Chief Mackey,

Q. Have you been informed of any reason of their application to move.

THE COMMISSIONER: What is after the [illegible].

MR. NILSON: There were two moves. It was all [illegible] and moved to [illegible] —

THE WITNESS: Yes.

Q. [illegible] — [illegible] of one of the officers or officers; and later they wanted to move to 121 Bunden.

THE COMMISSIONER: [illegible].

MR. MOORE: All I can say is that the file does not have any application for [illegible] Street. [illegible] in the file.

A. No, they never applied for — for their office to be at Hagerman Street.

THE COMMISSIONER: Q. You had a meeting, and the evidence did not prove that they had moved to Hagerman?

A. No, that is true, my Lord. That is true, my Lord.

MR. MOORE: Q. Was the inquiry did relate to Hagerman and not to High Ridge Street?

A. No, it related to 14 Hagerman.

Q. February the 6th, 1950, [illegible] before this hearing, you are asking Chief Morley,

"Does the club have club rooms at 1395 Yonge?". Hagerman does not appear in the files at all. I am mystified about that.

THE COMMISSIONER: It does.

MR. WILSON: It does appear in the file.

THE COMMISSIONER: The 1959 return shows the premises then was 14 Hagerman.

MR. ESTEY: That return, with respect, my lord, says the head office is at that place.

THE COMMISSIONER: It is assumed the operating premises and the head office are the same place.

MR. ESTEY: I think they have been different, my lord.

My note is ambiguous. I think they have been different.

A. I don't remember Yonge Street. I certainly remember 14 Hagerman. Let me check the file on this.

Q. I do not know that it is that important. A. I don't remember Yonge Street.

THE COMMISSIONER: I do not think it is of too great significance one way or the other.

Q. What happened after May, 1961? You wrote to the Minister on June the 12th and recommended against recommending against the granting of supplementary letters patent. What happened next?

"Does the club have club rooms at Long Vernon?"

Chairman does not appear in the files at all.

I am mystified about that.

THE COMMISSIONER: It does.

Mr. [illegible]: It does appear in the file.

THE COMMISSIONER: The 1929 return shows the president was Mr Hagerman.

Mr. MATHEW: That return, with respect, my lord, says the head office is at that place.

THE COMMISSIONER: It is assumed the operating premises and the head office are the same place.

Mr. MATHEW: I think they have been different, my lord.

My note is ambiguous. I think they have been different.

A. I don't remember Yonge Street.

I certainly remember 14 Hagerman. Let me check the file on that.

Q. I do not know that it is that important. I don't remember that.

THE COMMISSIONER: I do not think it is of too great significance one way or the other.

Q. Then suppose I show Mr. [illegible]

You move to the Minister on June the 12th and recommended against recommending against the granting of supplementary letters patent. Mr. [illegible] [illegible]

A. There is a memorandum -- I wrote to Mr. Lavine:

" Referring to the above club,
"I have discussed the matter with
"the Minister and he is of the view
"that Supplementary Letters Patent
"should not be issued.
" Would you advise the
"solicitors of the club accordingly."

MR. ESTEY: Q. I take it they were so advised?

A. Yes, they were -- Yes, they were advised.

Q. In a rather heated exchange of correspondence, they certainly knew you were not favouring the application?

A. That was on June the 16th. Then, I advised Chief Mackey that we did not grant the supplementary letters patent.

THE COMMISSIONER: Is not that the whole story?

MR. ESTEY: That is down to where it is today.

Q. The last thing on the file is a letter complaining the Department are telling them what accommodation is proper, and you merely say they can apply fof another move if they want to, and that is the end of it.

A. They are tied down to 92 Elizabeth

A. There is a memorandum -- I wrote to Mr. Lavine:

" Referring to the above claim,

"I have discussed the matter with

"the Minister and he is of the view

"that supplementary Estimates

"should not be issued.

" Would you advise the

"solicitors of the club accordingly."

Q. In a rather heated exchange of correspondence, they certainly know you were not favouring the application?

A. That was on June the 15th. Then, I advised Chief Mosley that we did not grant the supplementary Estimates.

Q. Is that the whole story?

MR. MOSLY: That is down to where it is now.

Q. The last thing on the file is a letter complaining the Government are telling them what accommodation is proper, and you merely say they can apply for another move if they want to, and that is the end of it.

A. They are tied down to 32 Elizabeth

Street and I understood from the police they can't operate from there.

Q. On December 11, 1961, you said you can file an application for another premises.

A. Yes.

FF/2

Q. My question on this club; Having gone through the police reports and the hearing, and one thing and another, we know the club has not real estate, it is not an athletic club, it is not a member of an international organization. What is the purpose of keeping that charter on the books?

A. Well, for all we -- There is one thing, certainly, against us; that proposed move to 121 Dundas Street, where it looked as if there was another group coming in. I don't know. It may be the original group in there. There is one thing, they are tied down as much as if the charter was at that address, and the police tell me they cannot operate at that address because it is converted into a premises where they couldn't operate or the building is torn down.

THE COMMISSIONER: Q. I suppose you are leaving the next move up to them?

A. Yes.

Q. I do not mean the physical move.

A. Yes. I enquired of the police about the premises on Elizabeth and they say it

Street and I understood from the police they [illegible] from there.

Q. On December 11, 1921, you said you can file an application for another premises.

A. Yes.

Q. If question on this [illegible] gone through the police reports and the bunting, and one thing and another, we know the club has not real estate, it is not an athletic club, it is not a member of an intercollegiate organization. What is the purpose of keeping that character on the books?

A. Well, for all we -- There is [illegible] proposed move to 121 Dundas Street, where it looked as if there was another group coming in. I don't know. It may be the original group in there. There is one thing, they are tied down as much as if the character was at that address, and the police told me they cannot operate at that address because it is converted into a premises where they couldn't operate on the building is torn down.

THE COMMISSIONER: Q. I suppose you are leaving the next move up to them?

A. Yes.

Q. I do not mean the physical move.

A. Yes. I conferred of the police about the premises in Bloomsbury and they say it

is impossible for them to occupy the premises.

MR. ESTEY: That is the last of the files, you will be glad to know, I want to ask you about.

There is one other club which has occupied much time in these proceedings, the Acme Social Club. I understand that file disappeared, Mr. Cudney?

A. Yes.

Q. And, so far as ymu know, if I am right on this, correct me if I am wrong, so far as you know that found its way to the Minister's office two or three years ago and has never been seen or heard of since?

A. That is what I have been informed. It was in the winter of -- February, 1960, a police report came in and my assistant, Thomas Thompson, was called by the Minister to bring the report and the file in, and the file apparently has not been found. I turned the Department upside down three or four times.

Q. That is the only one you have lost of these files?

A. Yes.

Q. What you might call contentious files?

A. So far as I know, Mr. Estey, that is all.

occupied much time in those proceedings, the Home Social Club. I understand that file disappeared, Mr. Chairman?

A. Yes.

Q. And, so far as you know, if I am right on this, correct me if I am wrong, so far as you know that found its way to the Minister's office two or three years ago and has never been seen or heard of since?

A. That is what I have been informed. It was in the winter of -- February, 1930, a police report came in and my predecessor, Thomas Thompson, was called by the Minister to bring the report and the file in, and the file apparently has not been found. I turned the department upside down three or four times.

Q. That is the only one you have lost of those files?

A. Yes.

Q. Have you still outstanding

WITNESS

A. So far as I know, Mr. Roper, that is all.

Q. You are operating on a built-up record since the date of the loss?

A. Yes. We pieced together what we had to build up a file on it.

Q. Mr. Cudney, you have been through a long travail, but there is one last question: In all these clubs we have seen there has been a varying degree of consultation on the one end of the scale and perhaps pressure is the best word on the other end of the scale, between you, as the Deputy Provincial Secretary, to do or not to do something under The Corporations Act. You have seen Chief Mackey's memorandum of rumours that there would be more pressure from members of the Legislature, I think in that instance to slow down cancellation. We have seen other instances where there have been letters prevailing upon your superior, the Minister, to issue letters patent. I take it from these instances and from the reports and discussions we have had, that in your position, whether one likes it or not, you are subject to varying degrees of agitation or pressure to do or refrain from doing something required under The Corporations Act?

A. Well, it depends, Mr. Estey, --

THE COMMISSIONER: I do not know whether that is quite a fair question.

Q. You are operating on a building

[illegible] along the [illegible] on the beach?

A. Yes. We planned everything [illegible]

had to build up a file on it.

Q. Mr. Grover, you have been through a long travail, but there is one last question: In all these cases we have seen there has been a varying degree of consultation on the one end of the scale and perhaps precedence is the best word on the other end of the scale, between you, as the County Provincial Secretary, to do or not to do something under The Corporations Act. You have seen Chief [illegible] [illegible] be more pressure from members of the Legislature, I think in that instance to slow down consultation. We have seen [illegible] more times than a few Tatrons [illegible] [illegible] [illegible], the Minister, in [illegible] [illegible]. I know [illegible] and from the reports and discussions we have had, that in your position, whether one likes it or not, you are subject to varying degrees of application or pressure to do or refrain from doing something required under The Corporations Act?

A. Well, it depends, Mr. Rubow, --

THE COMMISSIONER: I do not know whether that is quite a fair question.

MR. ESTEY: It is a long one.

THE COMMISSIONER: It is a long and complicated question.

MR. ESTEY: I did not want to spring it on him but I wanted him to tell us -- We are aware of the fact; we have seen letters from Ministers and M.P.P.'s.

THE COMMISSIONER: I understand the position of any deputy Minister. The decisions must be made by his superior, the Minister. He may make recommendations which the Minister accepts or rejects, but he cannot make the final decision; the final decision is left to the Minister.

MR. ESTEY: I did not have in mind, really, that so much. I did not express it well. Obviously, he will be reversed from time to time by the Minister, no matter who his Minister is and no matter who the deputy is. I was more interested in the kind of thing where an interested party may or may not be a Member of the Legislature at the time, going to his friend the Cabinet Minister or his colleague the Cabinet Minister, or some other connection, or to some other Cabinet Minister, such as we see in the letter concerning the Tisdale Club. I was wondering how much of that kind of interference has to be contended with in this Deputy Minister's life.

MR. MATHY: It is a long one.

THE CHAIRMAN: It is a long and complicated question.

MR. MATHY: I did not want to spring it on him but I wanted him to tell us -- he was aware of the fact; we have seen letters from Ministers and M.P.P.'s.

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I do not ask the question in vacuo. I realize it is a touchy question. If we had more standards built into the legislation, not the regulations but the legislation, so that the persons administering the Act could say to the enquirer or persistent peddler of one point of view, "This is the law and I cannot do otherwise". Would this kind of treatment on corporations, Part III charters, would it be of concrete assistance to the Deputy Provincial Secretary in administering the Act?

THE COMMISSIONER: I have no doubt, if something was written into the legislation, and I have not anything precisely in mind --

MR. ESTEY: The police referral was one.

THE COMMISSIONER: I suppose you could visualize some matters that might be included in the legislation which would remove from the Deputy any chance of any interference by anybody, apart from his Minister. With any interference with his conduct in his capacity as Deputy.

MR. ESTEY: Well, I had in mind a police referral, for example, my lord. There is nothing mandatory now; it is the practice, it is habit to refer it to the police. That is a matter of a policy to be changed without any outside knowledge at all.

THE COMMISSIONER: That is so. I indicated earlier the thoughts that had been running through my mind when I was asking Mr. Cudney as tothe form of the report that they sought from the police.

The Minister cannot divest himself of his jurisdiction to make the decision as to whether a charter should or should not be granted or whether a charter should or should not be cancelled, and he cannot delegate that to the police. He can see from the police information which will assist him in making up his own mind but the responsibility must, surely, in the final analysis, be the Minister's.

MR. ESTEY: There is no question about that.

THE COMMISSIONER: I do not know that it would be a cure-all, to have something written into the legislation, so long as it is well understood that the decision must, in the final analysis, be the decision of the Minister.

MR. ESTEY: We have the startling example - I will not press this, it is late - but we do have the startling result in the Toronto Chinese Athletic Club and the Toronto Chinese Anti-Communist Club where the regulations were set aside and the charter amended inconsistent with the law.

THE COMMISSIONER: That is so. I [illegible] [illegible] [illegible] [illegible] [illegible] Mr. Gordon on behalf of the report that [illegible] [illegible].

The Magistrate cannot divest himself of [illegible] [illegible] whether a character should or should not be [illegible] not be convicted, and he cannot delegate that to the police. He can see from the police information which will assist him in making up his own mind as to the responsibility [illegible], in the final analysis, be the Magistrate.

Mr. SCOTT: There is no question about that.

THE COMMISSIONER: I do not know that it would be a cure-all, to have a recommendation into the legislation, so long as it is well understood that the ultimate [illegible] in the final analysis, be the decision of the Magistrate.

Mr. [illegible]: We have the [illegible] example - I will not quote [illegible], it is [illegible] and we do have the something [illegible] in the Toronto Chinese [illegible] and the [illegible] [illegible] are made and the greater [illegible] [illegible] [illegible].

FF/3

THE COMMISSIONER: I do not suggest the regulations can be ignored.

MR. ESTEY: No, I appreciate that.

Well, if your lordship thinks the question is unnecessary to the inquiry --

THE COMMISSIONER: I do not know that Mr. Cudney's opinion would help me one way or the other. I suppose in argument you might make some submissions which might get me thinking and you might then suggest them, but I do not think it would be helpful to put any further questions to Mr. Cudney.

(Page 13235 follows)

(Page 1352 follows)

BB/1/JMcG

THE WITNESS: I think I can say this, my lord, any lawyer of repute in this Province knows I am not subject to any political pressures one way or the other and any representations that should be made are made as the lawyers know not from any political standpoint.

THE COMMISSIONER: You are not susceptible?

A. That is true, my lord.

MR. ESTEY: I can give you a character reference in regard to that statement.

THE COMMISSIONER: I accept that statement from this witness.

MR. ESTEY: The Commissioner has had long experience in weighing witnesses and I think in the final analysis the whole presentation, especially the questions at the end, is repetition. He has told all he knows about these clubs and these are the clubs we want to know about. I thank Mr. Cudney for being so patient.

THE WITNESS: If I may say one word, my lord, about my former Ministers who have not spoken for themselves. It has always been a pleasure to work with them, they were sincere and upright men and I wouldn't doubt their motives one bit, and Mr. Frost, who has been mentioned, had the highest respect for all of them, Mr. Nixon, Mr. Dunbar, Mr. Porter,

MR. [illegible]: I think I can say, my lord, any lawyer of repute in this Province known I am not subject to any political pressure one way or the other and any representations that should be made are made as the lawyers know not from any political standpoint.

THE COMMISSIONER: You are not susceptible?

A. That is true, my lord.

MR. MOTHY: I can give you a character [illegible].

THE COMMISSIONER: I accept that [illegible] from this witness.

MR. MOTHY: The Commissioner has had long experience in weighing witnesses and I think in the final analysis the whole presentation, especially the questions at the end, is repetition. He has told all he knows about these claims and these are the claims we want to know about. I beam Mr. Cannon for being so patient.

THE COMMISSIONER: If I may say one word, my lord, about my former Ministers who have not spoken for themselves. It has always been a pleasure to work with them, they were sincere and upright men and I wouldn't doubt their motives one bit, and Mr. Pooley, who has been mentioned, had the highest respect for all of them, Mr. Wilson, Mr. Cannon, Mr. Porter,

Mr. Welsh, Dr.Phillips and Mr. Nickle and Mr. Yaremko. I have the highest respect for all of them and it has been a pleasure to work with them.

THE COMMISSIONER: I have discussed this matter with counsel and Mr. Lawlor, you had some questions you wanted to ask of Mr. Cudney?

MR. LAWLOR: Yes, my lord.

THE COMMISSIONER: I have a program laid out for tomorrow. I will let counsel know when it will be possible to carry on your examination.

---Whereupon the hearing adjourned at 6:15 o'clock p.m. until 10:00 o'clock a.m., Wednesday, October 17th, 1962.

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ON CRIME

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A/1/JHoG

THURSDAY, OCTOBER 16, 1952

---On resuming at 10:40 o'clock a.m.

ROBERT J. CUDNEY, resumed

EXAMINED BY MR. LAWLOR:

THE COMMISSIONER: Yes, Mr. Lawlor.

MR. LAWLOR: Thank you, my lord.

Q. My lord, I would make two statements, one is I do not think this will be very long and I want to congratulate Mr. Ratey on covering the ground very thoroughly in regard to these clubs and other clubs occupying premises and I do not think I need to go into that.

The second thing is an observation I wish to make to Mr. Cudney; when I turn to a club I would like if humanly possible, because I have only one specific point to deal with and there will be a memo or letter with respect to that specific point, and if he could turn to that, that is all I really want. It will not be necessary to make a lengthy examination of the documents and I hope this will fore-shorten my cross-examination.

THE COMMISSIONER: Yes.

MR. LAWLOR: Q. You stated for twenty years these clubs had been a constant bugbear to your Department?

A. Yes.

Q. During the course of the years was it largely because of gambling enterprises?

A. Oh, yes, well, gambling or betting.

Q. Now, I have a few points arising out of the brief here. Why was the clause with respect to real estate, unless they acquired real estate, placed in the charter? Why was it put in?

A. Well, it was to further ascertain that it was a bona fide application. They had to have some reason for seeking to incorporate and the chief reason was the acquisition of real estate.

Q. Now, from 1938 until 1946 you stopped incorporating social clubs other than golf clubs or community clubs?

A. What is the date?

Q. It is from 1938 until 1946. You heard my question, did you, you restricted all these charters for a period of time?

A. Yes.

Q. My question is, is there any merit in returning to such a policy?

A. At the present time?

Q. At the present time.

A. No, I don't think so, because the reason it was changed in 1946 was that many bona fide corporations were denied the

benefit of incorporation because one per cent of social clubs wanted to break the law. I do not see how it would help, providing they are properly screened. In all the clubs we have incorporated in the last twelve years less than one per cent have gone wrong and their charters have been cancelled. With the policy we have worked out, I do not think it would be of benefit. What I mean by that is, that many people want to form social clubs that have nothing to do with illegal games. Everyone is screened and I do not think there is any merit in returning to the 1938 policy.

Q. In other words, if they wish to use these club charters for gambling, whether they use them in the way you have restricted them, they could nevertheless use them.

THE COMMISSIONER: I don't quite get that.

MR. LAWLOR: Q. Even restricting the charters of this type of club, golf clubs, community clubs and service clubs, I take it in any case the gambling fraternity could infiltrate and take over such a club.

THE COMMISSIONER: That is not what he has said. He has said of all the social clubs incorporated in the last twelve years less than one per cent have been cancelled.

MR. LAWLOR: I agree, my lord. May I

take it one step further; if this were done --

A. If what was done?

Q. If our recommendations were we would restrict the clubs on the basis that was previously used, that wouldn't solve the situation. The difficulty is if the gamblers infiltrate these clubs notwithstanding their outward appearance --

A. No, I don't think so.

Q. I am asking you that. If we went back to the policy of 1938 gamblers would still infiltrate these clubs?

A. No, I do not think so. I am thinking of the future.

Q. If in future all service clubs, golf clubs and that kind of social club, by some miraculous stroke disappeared, would gamblers still get into these service clubs?

A. I don't think they would.

THE COMMISSIONER: The answer is in all probability they wouldn't?

A. They wouldn't.

MR. LAWLOR: Q. That illustrates the thing we are discussing here today, the infiltration of clubs by gamblers.

A. Yes, I repeat that all types of social clubs, and there were 1033 charters granted in the time reviewed and since that time it is over 1100, we have actually cancelled

only eight.

THE COMMISSIONER: Why should 99 per cent suffer for the wrongdoing of 1 per cent? Is that the Department's policy?

A. Yes.

A/2 MR. LAWLOR: Q. At the time of application for a social club charter, you require a list of the members?

A. Yes, that was in the 1930's.

Q. Can you give me any idea when that policy was terminated?

A. Well, it was never a fixed policy. I have looked over the clubs incorporated in the 1930's and the 1940's and up until 1946, and it seems never to have been a firm policy. In some cases the Department required a list of members and in some cases they were referred to the police and in other cases they were not. As near as I can recall, if it appeared to be a bona fide organization we didn't get a list of members or didn't refer it to the police.

Q. Would it be of any benefit to make it a requirement within the Act or regulations that at the time of application a list of proposed members should be submitted to you, and would you then in turn refer it to the police?

A. Yes, I think that would have a certain merit. The police, of course, in their

own investigation find out who the members are. We rely on the police in our reference. Whether we obtain in and submit it to the police, I think in the police reports it shows they go over the list of members themselves.

Q. I think that is a matter of argument. I do not agree with the statement and as I say, I think it is a matter of argument.

The day after the incorporation they could change it if they so desired?

A. That is true.

Q. So it is not in one of the regulations, is it, it is a Department policy?

A. No, it is a Department practice.

Q. Now, taking the nuts and bolts clause, which was incorporated in 1946, how many times was this clause used? Just to shorten up the questioning I can tell you how many times and perhaps you can agree with me.

THE COMMISSIONER: So you mean a violation of it?

MR. LAWLOR: Yes, my lord.

THE WITNESS: Possibly it was used in four cases for certain and in one case it was one of the grounds.

MR. LAWLOR: Q. Without going into it, and just relying on your memory, I suggest there was the Assyrian Business Club in 1952, the Border City Press Club in 1954, the

Wentworth Chess Club and the Peninsula Association in 1955. Now, were those four instances where this clause was specifically invoked?

A. I would like to meet these one by one.

Q. First ofall, the list you are looking at is in 'H' or 'J'.

A. I am looking at page 20 of the list of cancellations under different headings.

Q. What appendix is that?

A. That is Appendix 'J'.

Q. You will agree with me that while there is a breakdown there it doesn't break down specifically the nuts and bolts clause?

A. No.

Q. Continue then.

A. The bars and bolts clause was put in in 1946 and the charter of the Border City Press Club was cancelled on suspicion of illegal gaming and also the policy at that time was that we would cancel any charter when barricades were involved. It was barricade and illegal gaming.

Q. Now, the Assyrian Business Men's Club was one cancelled I think on the bars and bolts clause?

A. Yes.

Q. And the Wentworth Chess Club; do

you recall it at all?

A. Yes, that was on the bars and bolts clause.

Q. Coming to the fifth instance where the Centre Road Veterans Club was cancelled on June 3rd, 1960, part of the grounds was bars and bolts?

A. That was part of the grounds.

Q. Bars and bolts?

A. Yes.

Q. Since this particular clause went into effect there are only five instances since 1946 where this clause has been invoked?

A. Yes, those are the only instances where it has been brought to our attention.

Q. Coming to the paraphernalia clause, that is no gaming equipment or device would be allowed on the premises, I have made notations that the point was only raised on two occasions as possible grounds for cancellation and curiously enough it was not used and as a matter of fact the clause was deleted. The Toronto Chinese Anti-Communist Club and another Chinese club was brought into question at the same time. Now, do you recall any instance where the paraphernalia clause was brought into it?

A. No, I don't recall any. I don't think there are any.

Q. You will agree with me this was the only time it was raised, that is, in these two instances?

A. To my knowledge, yes. At the hearing in respect of the Bathurst-Sheppard Club, where the charter was subsequently cancelled, there was mention of gambling paraphernalia.

THE COMMISSIONER: Q. When was the paraphernalia clause passed?

A. In 1950, about July the 1st, 1950.

MR. LANGLAR: Pardon me a moment, my lord.

My lord, on page 28 of the brief there is a seriatim of the various clauses.

Q. I want to take a moment to discuss with you about barricades. This clause was added in 1954 according to page 28 of the brief.

A. Yes.

Q. And I have notations here that that barricade clause was never specifically used.

A. I say it was used partly as one of the grounds in then cancellation of the charter of the Border City Press Club. That was about the time it was enacted.

Q. I notice in Volume 57, page 11153 you mention the Hamilton Business Men's Bridge

and Chess Club and barricades were mentioned there as possible grounds for cancellation of that charter. Do you recall that?

A. I propose to look at the file on that.

Q. It is at page 11154 at the bottom. Apparently there were two grounds.

A. We cancelled these two at that time because if any clubs had barricades, whether or not they had bars or bolts we cancelled them, it might be one or the other.

Q. This club was incorporated in 1947.

A. It was incorporated in 1947. They had plywood doors and all the windows were equipped with wire netting in addition to plywood installed on windows on the second floor and there were plywood doors at each end of the stairs. The bars and bolts clause isn't confined to that.

Q. It verges into barricades?

A. It does. It is just a difference in words.

Q. I notice another case of the Twin Cities Club in 1954. You went down on that occasion and saw the Chief of Police?

A. Yes.

Q. And by the time you got the police report they had removed the barricades so

you were unable to go ahead?

A. Yes, I remember going with Chief Patrick into the premises and there was a signal under the counter and there was a heavy door. I asked him for a report. I was in Kitchener on another matter speaking to the Mayor and he asked me to speak to the Chief in respect of this club and when I got to the club the barricades had been removed.

Q. Now, turning to look at Clause 104, two club charters were cancelled, the Club Macedonian and the Bathurst-Sheppard Club?

A. Yes. Q. In the evidence given yesterday there seemed to be an inconsistency in respect to the Chan Social Club where both police forces objected to the letters patent. This is at page 12653 of your evidence given in the last few days.

A. I read the memorandum on that; that was the first police report.

Q. The first police report?

A. Yes.

Q. The charter was cancelled on the basis of the police report, and the police reports were acted on in a couple of cases and not in another case.

THE COMMISSIONER: Isn't that a matter of argument?

MR. LAWLOR: All right, my lord, perhaps

it is. I wanted to bring it out and see what Mr. Sudney's comments were.

THE WITNESS: The charter of the Chum Club was subsequently cancelled on other grounds.

MR. LAWLOR: Q. A day or two ago I asked you to prepare a statistical memo as to the number of social clubs cancelled in one year. Have you such a memo in front of you?

A. Yes, I have.

Q. When does it start?

A. It begins on July 1st, 1950.

Q. How many were there in 1950?

A. From July 1st to the end of the year there were four.

Q. Will you read them, please?

A. Yes:

"1951 - 2.

"1952 - 2.

"1953 - 5.

"1954 - 10.

"1955 - 5.

"1956 - 1.

"1957 - 4.

"1958 - 4.

"1959 - 6.

"1960 - 19."

Then in 1961, that is until the date of the appointment of the Commission, there were 13.

THE COMMISSIONER: Q. How many?

A. 13, my lord. There are 75 and there is one that had not been acted on and that was the Hamilton Chess Club, actually the Hamilton Bridge and Chess Club, and that makes it 76 from July 1st, 1950. I am sorry, my lord, the Hamilton Business Man's Bridge and Chess Club was cancelled in 1954. So that in 1954 it would be 11 rather than 10. There were 76 cancelled during the twelve-year period and three others at the time of the appointment of the Commission were in the process of being cancelled and were later cancelled, making a total of 79 and 5 have been cancelled where complaints came in after the Commission was appointed. In other words, altogether there have been 84 to date cancelled since July 1st, 1950.

Q. There has been considerably more in 1960-1961 up to date?

A. Well, the greatest period was in 1960.

Q. You have 19 for that year?

A. Yes.

Q. I have 20 but I am not going to argue about it. I have taken it out of the appendix in the brief.

A. I think it is 20.

THE COMMISSIONER: One more or less doesn't

make much difference.

A. That is right, one more or less doesn't make much difference. The greatest number cancelled in that year were during the four months between January and the end of April, 1960. There were 12 cancelled over the three months and there were 2 others where the groundwork had been laid, or perhaps it is one other.

Q. In any case, going into the year 1960 there was a statistical increase in the number of cancellations?

A. Yes.

Q. A marked increase?

A. Well, I would say on that that the reports were more numerous, the police complaints.

(Page 13251 follows)

B/FTP/1

Q. I think I have finished with that point. Mr. Cudney, what has not been mentioned to any great extent, the list of 186 clubs contained in Appendix I which were clubs which were refused because of police objections or that of other government departments, I notice that out of 123 -- the balance being largely refused because of real estate ---

A. Yes, there are 123. on police objection.

Q. That 67 cases out of those there were two or more police objection. All you say in the brief is "objection". I would take it that when these objections came in to you and you got your police reports, that if you got two negative reports from the police, that that was almost sufficient in itself to refuse the application?

A. Well, it wasn't always -- sometimes one police force may approve and the other object, but if they had ----

Q. I am coming to that.- When you have two negative reports ----

A. Two negative reports.

Q. It appeared that you almost invariably turned them down?

A. Yes.

Q. Then on thirty-two cases of one police objection only, where one objected and

the other did not or did not report, on thirty-two of those cases then you jettisoned the charter, you refused to grant the application, is that right?

A. Well, you have the figures.

Q. Yes, I worked that out.

A. Yes, I would say, if those are -- I haven't analyzed those figures.

Q. And among the lists contained in "I" -- let me put the question this way. Do you recall that in a number of cases involving Chinese clubs, your Minister would write you a memo saying that, "We do not feel we can discriminate against any particular race", as a reason fo r granting some of them?

A. I remember ----

THE COMMISSIONER: Well, do you recall that? What is the answer?

MR. LAWLOR: That was the Toronto Chinese situation, where you grantedsome?

A. I don't recall many. I recall two.

Q. You recall two?

A. I recall two. That is all I recall. It was two, and it was not a memo. I remember my conversation with the Minister when he mentioned that.

Q. I see. Well, I notice again in

Appendix "I" that in twelve cases there are Chinese Social Clubs set forth here who were refused Letters Patent, ranging through fro m 1952 to 1960?

A. Well, I haven't analyzed those Chinese compared to the others, but you have been over the figures which are all set out there.

Q. I suggest that on the basis of Appendix "I" alone, a considerable number of Chinese clubs were turned down?

A. Is it twelve out of -- 123 police refusals, twelve were turned down.

Q. That is right, that is a considerable percentage of the 123?

A. Ten per cent, around eight to ten per cent. It would depend upon the nature of the report. I mean, if the police report was a strong report and the persons associated, gambling referred to and that sort of thing ----

Q. In your recollection wouldn't that report say, as it says almost invariably, that those Chinese clubs invariably turn into gambling dens?

A. That would sometimes, yes, but I mean there would be sometimes more than that. I mean, not just that alone. If they were refusing on, say, something more

than that, it would give the history. It is hard to say without going into it.

Q. All right, just explore the policy a little bit. When these applications came in to you, Mr. Gudney , you by and large, I take it, exercised your own discretion with respect to whether they would be approved or disapproved on the basis of the rpports that came to your hands?

THE COMMISSIONER: That is not quite putting it accurately.

MR. LAWLOR: I am asking him, my lord.

THE COMMISSIONER: I know you are asking him, but you might inadvertently get an answer that does not reflect the actual facts. As I pointed out here Tuesday, the decision in every instance must be the decision of the Minister/ The Deputy Minister could say to his Minister, "In my opinion, based upon the information I have, it would be proper to refuse, or it would be proper to grant the charter", but when you put it to the witness that in every instance he exercised his discretion, he has not got any discretion.

MR. LAWLOR: Mr. Commissioner, that is precisely my point. My point is ---

THE COMMISSIONER: As long as you understand that.

MR. LAWLOR: My point is, Mr. Commissioner, that by some fiction, you might say, that there was the ministerial discretion being exercised by Mr. Cudney. My suggestion to Mr. Cudney is going to be that in case of cancellation it was always referred to the Minister, but in case of the original applications being either accepted or rejected it was very seldom referred to the Minister; that Mr. Cudney exercised this discretion on his own.

Q. Isn't that correct, Mr. Cudney?

A. I don't know anything about "seldom". I mean, as I have said before on different occasions here, when a report came in through the police, at least any club, I asked the solicitor in the Department dealing to bring it to my attention, in other words not to grant it or refuse it on their own.

THE COMMISSIONER: You are now talking about granting of charters?

MR. LAWLOR: Yes.

THE COMMISSIONER: Not cancellation.

MR. LAWLOR: Not cancellation, and there are two parts to that question.

THE COMMISSIONER: I misunderstood your question.

THE WITNESS: The reports were as far as

I know, to my knowledge, all brought to my attention, and if it was a strong objection from the police, I considered the report, my lord, and if I thought that the police -- in view of the evidence I would refuse the application without taking it up with the Minister.

THE COMMISSIONER: I understood that. Then we have instances where the lawyer representing the applicant, I think perhaps properly, said: "I am not satisfied to have my application disposed of at the Deputy Minister level, because youhaven't any right to exercise the discretion, and I am going to the Minister with it"?

A. Yes.

Q. And on occasions the Minister would override, do you remember?

A. And in cases, my lord, where the police report did not seem too strong but where there may be doubt I would take it up with theMinister for his consideration. If it was a strong report I would ----

MR. DAWLOW: No, what I am after is a little different. Take a case where the reports of the police and everyone concerned were completely favourable. You would incorporate that club without further reference?

A. Yes.

Q. And in three instances at least

that we have come across you have, on the basis of unfavourable reports, refused applications without referring them first to the Minister. I refer to the Algonquin, the Apter and the Spadina.

A. Yes, I think ----

Q. They were not taken up with the Minister in the first instance. You exercised the discretion?

A. Yes.

Q. I am not blaming you now. I mention this is the way things worked. You felt on the basis of the reports that this was the legitimate way in which that discretion ought to be exercised obviously?

A. And the Port Credit.

Q. Now, I understand the policy is to refer everything to the Minister, is it?

A. Yes.

Q. That is on page 12823 of your evidence recently -- everything, all applications?

A. And it is mentioned in the brief, yes. Well, not all -- any refusals are referred to the -- refusals are referred at least all -- any objections rather are referred to the Minister and applications for incorporation come to my attention. If

they are favourable I look them over and they send them off with my initials, if the reports are favourable.

. I want to explore the subject of complaints coming into the Department a little bit, and I would ask Mr. McCormick if he would get out the Athene Social Club. I am dividing up the complaints into two kinds. Were there ever any instances where there was a private complaint, that is, a complaint from a private citizen, come into your hands?

A. This is in respect to cancellation or incorporation or any complaint?

Q. Any complaint.

A. Yes, I remember -- there is the odd one. Mostly, it is almost always a police complaint, but there has been the odd private citizen who has complained.

Q. Yes, would you take a look in the Athene Social Club file there, where Mr. William Lewis of the Visualized Display Company wrote to you with respect to the Athene Social Club, advising as to what apparently was illegal activities being carried on, and Mr. Lewis was apparently quite upset about the whole thing. I haven't the date of the letter. Do you find it there?

A. December 19th, 1957, from, it

looks like, Mr. William Lewis, addressed to me re the Athens Social Club.

Q. This was on Dundas Street West -- no, this is the address of Mr. Lewis?

A. His address was, Lewis's address was 326.

THE COMMISSIONER: What difference does it make where he lived?

MR. LAWLOR: Q. Then what did you do as the result of that complaint coming into your hands?

THE COMMISSIONER: Was it a complaint with respect to the activities of an existing club?

MR. LAWLOR: That is right, my lord.

THE WITNESS: I wrote to Mr. Lewis, I said:

"I would be very pleased to arrange
"an appointment with you at the
"office to discuss the matter more
"fully."

And asked him to call the office, gave him the telephone number to make an appointment.

Q. Did he appear?

A. There is no indication that he did, Mr. Lawlor, I don't remember the case myself.

Q. I see. In any event ---

A. By theway, in the letter here -- I am just reading the letter over here -- he

refers to misuse of the charter. Yes, he is complaining about the club, about the activities of the club.

Q. Did you refer that to the police at all?

A. No.

Q. Now, the other kind of ---

A. I mean, there wasn't enough in the letter. He is complaining generally here, and I asked him to come in and see me. Now, I can't remember whether he came in or whether he called me or not, or whether he dropped it there, I don't remember.

Q. Will you read his letter, Mr. Cudney. It is not very long.

A. "Dear Sir:

"The writer wishes to bring to "your attention the misuse of the "charter the above director_s now "held by having more than one "club room in present operation "at 267 Yonge Street (upstairs) "and one at Clinton and College "Streets, using in both instances "their charter in photostatic "form keeping the orighal one "away in case of a police raid "as one which took place in "March, 1956, at 367½ College

"Street and being cut shooting 'craps'
"but in some way 'wiggled' out from
"being convicted due to the fact that
"the blame was laid against the address,
"and keeping out the names of those
"running the place. Plus paying
"several hundred dollars to some
"in the 'know' to hush-hush the
"matter, etc.

"Whilst occupying the premises
"at 367 College Street, Toronto,
"and after the police raid crap
"shooting went on in the basement
"right along as I found out they
"skipped out of the above premises
"leaving the evidence of their
"operation.

"And when moving they took
"along with them tables and an
"electric fan, plus owing to
"several trades people bills unpaid
"which they might put a mechanic's
"lien against the building as
"owner might find myself liable.

"Besides that left unpaid
"gas and water bills which I was
"compelled . . . "

Q. I don't think that is too important.

A. No, but I am bringing the matter

to your attention.

THE COMMISSIONER: He was apparently the landlord.

A. " . . . left unpaid gas and water "bills which I --- "

Q. "Besides that left unpaid gas "and water bills which I was compelled "to pay."

A. Yes, I would take it he is the landlord but he says, I think, my lord, at the end of the letter here that they "skipped" -- yes, he says:

"I found out they skipped out of the "above premises."

In other words, they had left the premises at that time. So I wrote him and asked him for an interview to come in.

MR. LAWLOR: Q. Well, turning to the police type of complaint ---

THE COMMISSIONER: Are you all through with the Athens Social Club?

MR. LAWLOR: Yes, I am.

THE COMMISSIONER: That was subsequently cancelled?

MR. LAWLOR: That is right. I just wish these clubs for one specific purpose.

Q. Turning to the police complaints, in 1946 a letter was written contained in your file, in your Appendix D, I believe, as Item 2

on page 3. This is to the Hon. D.R. Michener, to yourself, Mr. Cudney, dated 24th August, 1946. It is with respect to the chief constables:

"I am enclosing herewith a draft "letter proposed to be sent to the chief "constables of all cities in the "province relative to our policy "concerning the incorporation of "social clubs."

THE COMMISSIONER: Where are you reading?

MR. LAWLOR: At the top of page 2, my lord, at the beginning of the letter. Now, my lord, I propose to switch over to the last paragraph on page 3 where they say:

"The chief constable of the "municipality where the head office "is to be situate will be notified "when the charter is issued. We "would solicit your assistance in "informing us if you have any "trouble with an incorporated club "and we will be pleased to co-"operate with you."

Is that correct?

A. Yes.

Q. All right, and was any letter of a similar nature asking for police assistance and advising them of the various clauses in the charters which may be utilized against

social clubs, I say, was any similar letter ever sent subsequent to 1946?

A. A general letter like this to the police? No, not that I recall.

Q. This is the only occasion on which the Department requested formal police assistance on complaints with respect to the operation of social clubs, is that correct?

A. I wouldn't say it is the only time we have formally requested because I have had different talks with many police forces over a great number of years and I have always enlisted their co-operation. This is the only time that a letter like this, a general form letter so to speak, was sent to the police.

Q. What I am trying to get at is as to whether a police force up in Pembroke, for instance, the local police force would be fully cognizant of the various provisions in the charters which would make the charters liable to cancellation in case of contravention of them, because of activities in that particular locality?

A. Well, the larger municipalities certainly would know, and the Anti-Gambling Squad of the Provincial Police arewell aware of these provisions even from their inception, and they do a lot of work in

respect to clubs all over Ontario outside of Metropolitan Toronto.

Q. I suggest to you on theevidence disclosed at this hearing thus far, that in only two and perhaps three cities is this true. I refer, of course, to Toronto where you were in constant consultation, but as I remember only a few cases where the Hamilton Police would come forward with a complaint about contravention of any of these clauses, and I think there is amoot case in the case of the local police in Windsor, but those are the only two cases there, aren't they?

A. Well, those were the centres outside of Toronto where there seems to have been, there has been the odd centre where there has been difficulty with clubs, but they are the two centres outside of Toronto. There may be one or two other places but I don't think it isbecause -- I think they have known of their regulations because they have brought in complaints. If theye were complaints they didn't bring to my attention, of course, I cannot say. The Anti-Gambling Squad certainly brought them to my attention. They worked all over Ontarioin conjunction -- I think the local police call in the Anti-Gambling Squad -- I

don't really know, but that is supposition -- if they had trouble with a club. I mean, I have had a great many correspondence with chiefs of police and had them in my office over many years from almost every town andcity in Ontario.

Q. Apart from the switch of head office, it is almost invariably the case, would you agree with me -- overwhelming -- that it was the police who initiated investigations or informed you of these situations with respect to these clubs? You on your side within the Department very seldom, if ever, referred matters tothe police for investigation?

A. Well, I wouldn't say that, Mr. Lawlor. These three thatresulted in cancellation were brought to our attention by the police. There are cases where -- well, Ottawa is one I read in first in thenewspaper and started proceedings going, and then was in touch with the police.

B/3

I would say from what appears in the brief here thatjust, I mean, the cancellations -- but three years ago I instructed our annual returns office to bring to my attention any cases where social club annual returns had been filed in bulk or where the head office had been changed or where the personnel of

the directors had been changed. There have been a number of cases that have been brought to my attention, and sometimes by looking over the file there is nothing that seems unusual, but in other cases I have written to the police for reports, and these reports have come in favourable. I have looked into it and the club was going on as it should. I mean, it does not appear in the brief here but, I mean, there have been a number of cases where I have written to the police as a result of our investigation.

Q. Yes, but you heard at the beginning of my previous question, apart from cases where returns as filed indicate a change of head office -- in those cases your department was acute to have investigation made ---

A. Or other instances, where arrears were filed or where directors changed.

Q. Where a bundle of returns would come in?

A. That is right.

Q. In a specific year. Do you remember any instance in which you then, on the basis of that alone, referred to the police for investigation?

A. Well, these matters have been taken up when the situation became more acute three years ago. I don't remember were it was

maybe -- where a bundle of annual returns -- I mean, they have been brought to my attention where a bundle was filed. It may be about that time (I don't know) I called the police, or whether at that time the police objection came in. You mean where the Department would say to the police if they ----

Q. Yes, for many years past I suggest, on the basis of that alone, I am asking whether you would ask for police investigation?

A. Well, I don't think since we started this policy three years ago of bringing them directly to my attention, I think there have been cases, yes.

THE COMMISSIONER: When you say three years ago, precisely when did that departmental policy ---

A. About December 20th, 1959.

MR. LAWLOR: Q. Now, would it be fair to say, again, in the overwhelming majority of instances where you did get police complaints, that that was subsequent to either convictions or charges being laid?

THE COMMISSIONER: In the great majority of cases.

MR. LAWLOR: Q. In the great majority of cases?

A. Yes, were in respect to convictions, where police complaints were usually with respect

to convictions or charges being laid.

MR. LAWLOR: Q. The police in other words desisted, it appears, from filing complaints until after they had acquired sufficient evidence for convictions, would that be a fair statement?

A. No, they did bring to us cases where there was suspicion of ---

Q. I am saying in the majority of cases, Mr.Cudney?

A. The majority of cases, yes.

Q. There are instances where the gambling was notorious and they brought it to your attention. Mr. Cudney, I desire now to turn to the wonderful subject oftrafficking. To make a long story short, I have noted in the last few days twenty-five different cases of trafficking, some of which have been gone over by Mr. Estey and which I propose not to touch on. If Mr. Wilson wishes to have this list ---

THE COMMISSIONER: Just a moment.

MR. WILSON: My friend makes a statement of that kind. I am sure he will tell us who, what clubs are involved.

THE COMMISSIONER: I would expect he would. He has not finished yet.

MR. LAWLOR: Q. Now, on thisbranch of the investigation, first of all if you have a

copy of the brief there, Mr. Cudney, would you turn to page 48 where you have a definition of trafficking at the bottom of the page in the Department's comments. It reads as follows:

"Mr. Winterwyer does not define "the term 'trafficking'. Presumably "he is referring to the case where a "corporation has been operating in one "place and the charter is then 'bought' "by new interests and moved to another "place, or to the case where a charter "has been dormant for many years and "is then reactivated by new interests."

Those are two instances of trafficking, I suggest to you. There is at least one more. Would you agree that there is a third type where there is an established club in one place operating a branch office in another place?

A. Like the one in Timmins having a branch in Peterborough? Well, it would depend. I would say, first of all, if they were -- suppose it was a national or a group, some people with a common bond, say, and they opened a branch, they had a head office in Timmins and they opened a branch in Peterborough and there was some common bond between the people by reason of nationality or economic interests,

something of that nature. Then I would be inclined to say -- but if some group in Peterborough bought or opened a branch, I would be inclined to think that was trafficking. Of course, they may possibly come under the charters bought ---

Q. Mr. Cudney, we have had instances, as you say, where the Porcupine, the Miners' Club and theWest End Social Club and others have operated branches?

A. That is right.

Q. Is there any question in your mind that this is trafficking in charters?

A. No, I would be inclined -- unless there was some common bond between the parent one in Timmins and the one in Peterborough, I mean, such as some national bond or something like that. I am thinking of national organizations where they have branches all over the country, but, I mean, if there is no common bond ---

Q. I am talking about Ontario incorporated social clubs.

A. If there is no common bond, I would say it was.

Q. Right, so that is a possible third definition, third arm of the definition. Turning to page 49, the next page, the second paragraph of that page in your comments you

say:

"As the result of this legislation and "change in the departmental policy . . . " -- this is what I am after anyhow --

" . . . (the latter resulting in the "cancellation of five social clubs "where it would appear that there had "been a trafficking in the charter). . . " -- What I am after is the names of those five social clubs that you are mentioning there. Do you recall?

A. Well, those five ---

Q. Maybe I can help you.

A. To tell you those five, I think I can. There is Ottawa in one, and Preston is another. There is the Community is another. Some of these have other grounds as well, but this is partly thegrounds.

THE COMMISSIONER: That is three.

MR. WILSON: They are in Appendix J.

THE WITNESS: Club 21, that is four.

MR. LAWLOR: Again, my lord, perhaps I can help. This is a difficult thing to do.

Q. Would you say that the Border City Rendezvous Club might have been one?

A. I would have to check that. I don't just remember. I just forget the detail of that one, but there is the Columbia.

Q. Perhaps the Columbia Bridge Club?

A. I would have to check both of these.

Q. I see.

A. I couldn't say until I check. I would say the Community, the Nottawa, the Preston and, as I recall, the 21 Club. Club 21 was a case of forfeiture.

MR. WILSON: The Central Amateur. If you go through "J" you get them all. They are all set out.

MR. LAWLOR: Q. Turning to "J", Mr. Cudney, I think this was mentioned the other day. I believe in all of "J" that the grounds for cancellation which are set out, the word "trafficking" is used only once. If you refer to J-11, the Central Amateur Athletic Association, the grounds, the cause for cancellation set out are:

"Evidence of illegal gaming and "trafficking in charter."

Do you recall that instance of the Central Amateur Club?

A. Yes. My letter to the club of cancellation was on forfeiture of corporate powers.

Q. As a matter of fact, it is forfeiture of corporate powers, and when that appears it almost invariably indicates gambling -- trafficking, isn't that correct?

THE COMMISSIONER: What?

B/4

MR. LAWLOR: Q. With the words "forfeiture of corporate powers", which is basically non-user, that almost invariably in this "J" section indicates trafficking?

A. Well, that is -- yes.

Q. It is another wordalmost for trafficking. There may be other grounds.

A. It is very closely related.

Q. Very close to it?

A. Related to it. I mean, I remember that the Central Amateur Athletic, I checked my letter that I wrote of cancellation in 1954. It was on the basis of the forfeiture of corporate powers. The police report analyzed -- I mean, you might get three or four grounds. It was that one ground I mentioned in my letter. It could have appeared that there was trafficking and there was evidence of a whole background behind the whole thing, evidence of illegal gaming.

Q. Mr. Cudney, would you get out the Alpha Club?

THE COMMISSIONER: Are you still under the heading of trafficking?

MR. LAWLOR: Yes, this is the trafficking situation.

Q. Would you turn to the letter in there from the Chief Constable of the City of

Peterborough dated June 13th, 1961?

A. That is in the old file.

Q. Maybe I can shorten this up. This is a fairly lengthy letter. Would you on page 2 at the top read down to the bottom?

A. Yes, this is a letter from W.J. Shrubb, Deputy Chief Constable, dated June 13th, 1961, addressed to Deputy Provincial Secretary, Attention Mr. Lavine. He says on page 2:

"I would point out that this "same premises was raided in November, "1955, as being common gaming house "and the case was finally disposed of "in 1957. Four keepers were "convicted. It then operated as "a branch of the Tisdale Club and "this branch was cancelled, the "Tisdale Club charter being an "inactive company issued in the "Timmins area. The branch operated "here but there was no operation in "the Timmins area other than what "was referred to as the head "office. I am sure that the "Ontario Provincial Police Anti-"Gambling Branch established to "their satisfaction at that time "that there was some association

"with the Tisdale Club and the operators
"of the other major gambling clubs that
"were then operating at Cooksville,
"Port Etie and Windsor.

"Mr. Yeotes was the owner of
"the building that the Tisdale Club
"operated and testified on behalf of
"the defense as to the ownership of
"the premises at that time. He
"stated that he had not given the
"keepers permission to barricade
"the door to these premises when it
"operated as a gaming house, but he
"did not object when he became aware
"of this condition.

"In the early part of 1954
"and prior thereto, the Cooksville
"Club operated under the name of the
"Alpha Club, and it was after it was
"established that the returns of
"this charter had not been properly
"filed annually that the club
"operators substituted this charter
"with a federal charter, a unit of
"the Army, Navy and Air Force
"Veterans in Canada, Unit 326.

"I questioned Mr. Lewis
"yesterday with respect to the Alpha
"Club mentioned here, and he stated

"that he had also been one of the original
"applicants for this charter and it was
"issued by the federal government in
"1927. It had been used in Peterborough
"until the war years, second world war,
"and then it was disbanded. A gambler
"known as Raymond ('Razor') Sullivan
"and one Gerrity, well known in the
"Toronto area, came to Peterborough
"and asked Yeates to allow them to
"use the charter. He agreed to this
"and it was employed at Cooksville.
"These additional facts will
"further serve to support our objection
"to this charter being issued. In
"concluding I would point out that
"the City of Peterborough is free
"of this type of operation at the
"present time, and it is the desire
"of the Department to have it remain
"that way."

Q. On the basis of that, you refused to issue the charter in 1960?

A. Yes, we refused. This was an application for the Alpha Club of Peterborough. It had no connection, my lord, with the old Alpha Club.

. Except that there is a connection through people?

A. Yes, that istrue. I meant, technically it had no -- I wanted to differentiate it from the old Alpha.

Q. I don't wish to prolong this questioning on this aspect. Mr. Wilson has raised the point and perhaps I might just briefly run through the clubs that I have noted in this context, my lord, or if my lord feels it is better on argument I am prepared to do that.

THE COMMISSIONER: I think it would be.

MR. LAWLOR: Q. There is one club that has not been given any role yet, Montcalm Amateur Athletic Association. The point I wish to make on this one is that it obtained an Ottawa incorporation and it was operated at 1289 Bloor Street West, Toronto. If you can just check that I think I can get on.

A. This club was incorporated in Ottawa, I remember that. It was from Ottawa and it operated in Toronto. There was a conviction. I am sorry, no, I am mixed up with the ---

THE COMMISSIONER: What is the point you want to raise with respect to it?

MR. LAWLOR: Q. That it was incorporated in Ottawa although they were subsequently found operating in Toronto under different

directorate.

A. I just want to check this.

Q. I just want to establish that this is a case of trafficking.

A. There is a conviction.

MR. WILSON: It is referred to in the brief at 85.

THE WITNESS: No, I think -- this was a conviction in Ottawa because the Chief of Police of Ottawa sent me a copy of the conviction of one person being convicted in Ottawa and that was in July, 1958, and it was cancelled in August, 1958.

MR. LAWLOR: Q. Then if you refer to K.3, Mr. Cudney?

A. Before we leave the Montcalm, there is no indication that it ever operated in Toronto.

Q. That is what yourbrief says at page 85, that there is no evidence of it having operated as Mr. Wintermeyer says. At K.3 I refer you to the Metropolitan Police report. Is "Montcalm Social Club" not the same entity?

A. Well, now, he says it is cancelled September 5th, 1958. That would be the same one, incorporated August 28, 1931. I don't know if they ever did operate. This is the first we -- or I think it is mentioned

in Mr. Wintermeyer's speech, but we had never any complaint to my knowledge from the Toronto Police. I think the file here shows a complaint from the Chief in Ottawa, of a conviction in Ottawa.

Q. But that is what this "K" Appendix shows, my lord, are complaints from the Metropolitan Police.

MR. WILSON: No, they don't.

THE WITNESS: This is a report from the Metropolitan Police.

MR. WILSON: That is on December 18, 1961.

THE WITNESS: Yes, this is a verbatim report from the Metropolitan Toronto Police, "K". I mean, this is what they say, Montcalm Social Club, and it gives these facts. Now, that is not the Department's.

MR. LAWLOR: Q. I appreciate that, but haven't they informed you of these clubs' existence by way of complaint somewhere along the line?

A. There is nothing on file here I can see.

Q. But they do state in this appendix that these are complaints, these various clubs?

A. Well, we haven't been able to -- all I have here is this file here, is all I can find, unless in some other file in regard to some of these other clubs they may have mentioned Montcalm. I don't know.

Q. I think my point will be established if you simply agree that the police do indicate that the Montcalm Social Club operated at 1259 Bloor Street West, a former address of a number of other clubs?

A. Yes, that is what the police report says.

Q. At some point. That is what the police report says?

A. In December, 1961, yes. Now, sometimes they might carry on after cancellation unincorporated under the same name, I don't know, or they may have carried on there before cancellation as an incorporated body, but we have no record, as the brief says.

Q. Again it refers to the date of incorporation and cancellation which you find coincident with what you have on file?

A. Yes.

(Page 13280 follows)

C/1/PAL

MR. LAWLOR: Q. Another club that has been mentioned by my friend in this connection is the Iroquois Club. There is a letter from Mr. Whiteside, the Deputy Crown Attorney, on April 27, 1951, to you. The Iroquois Club at Windsor.

A. April 27, 1931 -- '51.

Q. April 27, 1951. Somewhere in this letter he mentions this club came from Amherstburg, Ontario, and was noticed first in Windsor by the police in 1950. Is that correct?

A. Oh, yes. That is right.

Q. Before you answer that: This club was incorporated on February the 1st, 1927. Is that correct?

A. Yes.

Q. This letter to which I refer says the club came from Amherstburg.

A. Yes. Mr. Whiteside, the assistant Crown Attorney, said the club came from Amherstburg.

Q. I think the easiest way to handle this would be if I was to say I consider this a case of prima facie trafficking. Have you anything in the pile just offhand to refute that? Was it limited in its objectives?

A. No, it wasn't. It was a 1927 incorporation. It wasn't limited. The

incorporators were from the Town of Amherstburg. The head office was in the Town of Amherstburg.

THE COMMISSIONER: Q. Its objects?

A. Its objects were to establish, maintain,my lord, and conduct a club for the accommodation of its members and their friends and to provide a club house and other conveniences and, generally, to afford the members and their friends all the usual privileges, advantages, conveniences and accommodation of a club and to promote friendly and social intercourse among its members. Looking over the returns I see that over the years some of the members were from Windsor, one from Detroit -- I am looking at the '33.

MR. LAWLOR: Q. Look at the '50, now.

A. 1950. All the directors and officers are Windsor, my lord.

Q. Check that over against the 1940 -- make it 1945, see if theyare the same officers.

A. No, they are not the same. As a matter of fact,the officers, though, in 1945, were all from Windsor as well.

Q. But not the same officers. Jump on to -- This was cancelled in 1955. Take a look at the 1954 returns and see if the officers are the same as the 1950.

A. The last one we have is 1952. 1952 is the last, my lord.

Q. There has been some change in the directorate again over against 1950?

A. Pat Drouillard is still a director.

THE COMMISSIONER: Q. What is his first name?

A. Pat Drouillard is still a director. The others are different.

Q. What year was that?

A. 1952, my lord -- I am looking at the 1950 and 1952, my lord.

MR. LAWLOR: That is all I wish with that club.

I am going to contend that is a case of trafficking, my lord, just as it stands. It is not that important.

The Miner's Club.

A. Yes, I have that, Mr. Lawlor.

Q. This club was incorporated March 19, 1925, in the Township of Tisdale.

A. That is true.

THE COMMISSIONER: What do you want to develop with respect to that?

MR. LAWLOR: Another instance in point, my lord, where they had branch operations. It is not really new, it is just another case.

THE COMMISSIONER: We have had evidence on that.

MR. LAWLOR: The facts of the case are it

had a branch on Yonge Street and a branch in Hamilton and there was a conviction in Hamilton. As a result Mr. Turchyn, in 1956, writes — the Provincial Secretary writes saying it would be terminated forthwith unless they discontinued the branch in Hamilton. Turchyn writes the Provincial Secretary saying they would see it is discontinued. On September the 3rd, 1957, the Miner's Club were found guilty on its own grounds up in Tisdale and Turchyn was convicted of a gambling offence. That is the evidence I wanted to get into the record with respect to the Miner's Club. If Mr. Cudney has no objection to what I said we can leave it.

c/2

A. That is right, Turchyn was convicted.

THE COMMISSIONER: He agrees.

MR. LAWLOR: The Divion Club.

These are all cases of trafficking, my lord.

MR. WILSON: That is in the brief at page 43 and Appendix J at 8, 13 and 20, and K, 4.

MR. LAWLOR: K 23. It had its head office at 2 Tyndall Avenue, Hamilton.

A. 2 Tyndall Avenue, Toronto.

THE COMMISSIONER: Supposing you adopt the same method of dealing with that as you did with respect to the Miner's Club: State your

point and what you understand the facts to be and maybe Mr. Gudney can agree it is correct.

MR. LAWLOR: Perhaps we could have a brief recess while I check that, my lord?

THE COMMISSIONER: Very well.

---Short recess.

MR. LAWLOR: Q. Mr. Gudney, we were discussing the Divion Club and the matter of trafficking. You have a copy, and I have taken a photostat copy, of the police report, a very lengthy police report, of a Sergeant Priestly from Hamilton, I believe, submitted to Chief Mackay. In that report --

A. Sergeant Priestly is Toronto.

Q. Then, it is Chief Mackay of Toronto. On the first page, just incidentally in passing, all the returns -- in 1950 the returns from 1938 to 1949 inclusive were filed, with the 1941 return being a carbon copy, apparently, of the return for 1940. Is that correct?

Q. Is that what it says?

A. In his report, yes. I will just check the file.

Q. Do not, please, Mr. Gudney; do not. I think the point has been made many times. Then, on top of page 2 it says:

" Investigations conducted in

"Hamilton, Ontario, disclose that
"the Divion Club was operating in
"Hamilton, as indicated by a report
"submitted to this department as
"follows: . . ."

A. Yes.

Q. I do not intend to go very deeply into that. He says:

" The premises at 9A MacNab
"Street South, basement, was
"checked by . . ."

The officers. They go into ticker tape and various accoutrements found on that premises.

A. Yes.

Q. And there was a conviction registered against Andrew Papalia for keeping a common betting house at that address?

A. Rocco Papalia --

Q. Rocco Papalia and Andrew Papalia was charged and Angelo was convicted. He pleaded guilty.

A. Yes, that is true. That is correct.

Q. Also on page 3, second paragraph, there is mention:

" As a result of complaints
"regarding illegal betting
"activities being carried on in
"the premises situated at 1234
"Queen Street West in Toronto, . . ."

A. Yes.

Q. Is that correct?

A. That is correct.

Q. The fourth paragraph says:

" Early in the year 1957 the "premises at 1284 Queen Street, West, "were renovated. Subsequently, "the West End Bridge and Social Club "occupied the premises in October "of 1957."

Is that right?

A. Yes, that is correct.

Q. I think we have sufficiently established the nature of that.

Now, without getting out the file we will try and get over it this way: There is a Twin City Social Club, previously in Kitchener, which had two addresses in New Toronto, two different places in New Toronto. It was convicted. 199 7th Street, New Toronto, was convicted and there was a cancellation. Do you recall that at all?

A. No, I would have to see my file.

Q. Without going to the file.

A. I remember it was cancelled but I forget whether it was a branch in New Toronto.

Q. I am saying it is.

A. I would have to see my file, then.

Q. Were they ever given an opportunity to retain their charter by discontinuing the branch?

A. No, I don't think so.

Q. They were never given that opportunity?

A. No. That was cancelled 1960, I think.

Q. Yes, January 11, 1960.

A. Yes.

Q. Then, going to the next one, Lakeview Athletic Club. That charter is for Toronto. It had a branch in Nimico, at Stanley Street and three people were convicted. You point out to Sol Sebirtig that this charter is for Toronto and not Nimico, and you cancelled the charter. In that instance I have noted, too, there was no opportunity to discontinue, you gave them no alternative, you cancelled the charter of the parent company and they were out.

A. That was cancelled in 1961 on the conviction.

c/3 Q. The conviction was July 5, 1960. That came into existence in August, 1932.

A. Yes, incorporated August, 1932.

Q. As I say, there was no opportunity for discontinuance in that case?

A. Well, the conviction - I am just

reading my memo here - the conviction was for keeping a common betting house at 2016A Bathurst Street, Toronto, the club branch.

Q. Is not there a branch on Stanley Street, Mimico, too?

A. Lakeview could have been the original; that could have been the original.

Q. No, the charter is for Toronto. I live out in Mimico so I am very interested.

A. The Town of Mimico was the head office.

MR. WILSON: And/or elsewhere.

MR. LAWLOR: Q. Is not there a letter of June 29th, 1961, from you, Mr. Cudney? I do not know to whom. I have a letter --

A. This was cancelled -- June 29. There were three clubs. The police wrote in respect to three clubs, Lakeview, Ringside and Queen City. Now, this had been cancelled but, then, I dealt with Ringside and Queen City about June of 1961, I think. Unless that is the one.

Q. No. I have a note of June 29, 1961, Mr. Cudney says, "Your charter is for Toronto; not in Mimico"?

A. June?

Q. June 29, 1961, in your file.

A. The charter had been cancelled at that time. The charter was cancelled.

Q. April the 8th. Well, I will not labour it.

THE COMMISSIONER: What difference does it make?

A. I will try and find that later.

Q. No, not as far as I am concerned.

MR. LAWLOR: I will take a look for it in the break.

If I may run over this: Mr. Estey has established the facts in most of them. I see the Central Athletic Club and Finnish Athletic Association of Timmins --

MR. WILSON: Not so fast.

THE COMMISSIONER: Is not this argument?

MR. LAWLOR: I think perhaps it is.

THE COMMISSIONER:, I think definitely it is.

MR. LAWLOR: I wanted it established in evidence, too, my lord.

All right, my lord.

There are a number of clubs Mr. Estey mentioned yesterday. The Humber Bay Community Association seemed a clear case. I do not want to go into it.

THE COMMISSIONER: That is argument. If you have any evidence, any factual evidence with respect to these you are perfectly at liberty to get it, of course;but do not confuse argument with evidence.

MR. LAMLOR: I agree with your lordship on that.

The next point I wish to make. We have finished the trafficking, as far as I am concerned.

Q. Would you get the Yacht Club of Port Credit file?

THE COMMISSIONER: Under what heading will this be?

C/4 MR. LAMLOR: Well, under the heading of this: In previous cases convictions fall -- liquor offences have been either sufficient grounds for refusing a charter or for cancelling a charter once it had been received. In the case of the Yacht Club of Port Credit there is conclusive evidence on file that the president of the club had been convicted of a liquor offence before the charter was issued. The application was submitted to Mr. Cudney and he refused it. It was re-submitted -- The police reports were with respect to liquor being on the premises, and that was the basic objection. It was not strong, my lord. Nevertheless, it was refused. Then, there was a subsequent application, and so I will not disappoint my friend, the applications were made by Messrs. Pallett and Pallett, solicitors. At a subsequent date they re-applied and, at that time, it was granted, in

the face of the fact that in the meantime the president had been convicted of a liquor offence on the club premises. It goes beyond that.

Q. My question to you, Mr. Cudney, is: You do not have, at least I cannot see anything in the file indicating, as to why you reconsidered your opinion and what went on there with respect to the reasons why that club was granted its letters patent subsequent to that objection? That is a resume. Will you start at the end and can you tell me why, or do you remember why, you granted those letters patent?

A. I turned down the application, I think it was, the beginning of 1960, and I had two more requests during the year that it be granted, and I had turned it down each time. Then, toward the end of the year, this was shortly before I left, the matter was discussed with my Minister.

Q. Have you a memo on that?

A. No, I haven't.

Q. You remember that?

A. I remember that, yes.

Q. What was the nature of the discussion?

A. Well, the discussion, as I recall, was that there would be different applicants and the name would be slightly changed. The

application came in toward the end of December of 1960 and I had asked, I see by a memo here, two officials in the Department to advise when the application came in. That was following discussions with the Minister and, then, I was away and it was granted later in January, 1961.

Q. It was granted while you were away?

A. It was dated after -- I don't know it was dated after. It was sent out -- It was dated after I was away.

Q. There is no question, there was a liquor conviction?

A. I don't know whether there was a conviction or not. I know there were liquor charges laid. Oh, yes.

Q. August the 4th, 1959?

A. Yes, there was a conviction. That is right. At least, by a newspaper account I have here.

c/5 Q. You compare that situation with the Portugese-Canadian Association on page 59 of the brief and at page 12952 of your evidence, you turned that club down on the basis of a liquor -- on the premises. So my note says.

A. That is the Portugese-Canadian?

Q. Yes.

A. That was cancelled because of a liquor conviction.

Q. Yes. That is as much as I want with that one.

The next one I wish to discuss is the Lexington Rowa Club. I think it is fairly well set out at H 28 but I think you had better get the file.

THE COMMISSIONER: Just before you leave the Portugese-Canadian and the Yacht Club respectively, there may have been a conviction of the man who became president of the Yacht Club prior to incorporation -- That is what you say?

MR. LAWLOR: That is right.

THE COMMISSIONER: That is entirely different from the situation that prevailed at the Portugese-Canadian Association. There there was a police report, as I recall it, and I am certain I am right, there was the sale of liquor on the premises with the approval of the club. They found cases of beer all over the place.

MR. LAWLOR: Yes, you are right, Mr. Commissioner. The only parallel here is the various ways, that I consider a little inconsistent, in which the Department approaches liquor offences or suspicion of liquor. In one case, admittedly, it was before and in the second case your lordship mentioned it was subsequent to incorporation and prior to

cancellation, but it was a ground for cancellation; and as my friend Mr. Estey has brought to your attention, the same type of discretion.

THE COMMISSIONER: All I am pointing out, Mr. Lawlor, is that in the case of the Portugese club, in substance,it was a sale by the club.

MR. LAWLOR: I see.

THE COMMISSIONER: A sale with the approval of the club.

MR. LAWLOR: If the president of the club is convicted of selling liquor on the club premises I think we could say the club was cognizant. It is a moot point, my lord. I do not think we should labour it.

Q. I want to know the reason why the Leamington Roma Club was refused its application? On page 26 of Appendix H the Ontario Provincial Police -- its objection would be that one of the applicants would not be beyond committing an illegal transaction if he could succeed. In the file there is some evidence that this individual, whose name is not important, --

THE COMMISSIONER: Appendix H, you say?

MR. LAWLOR: Appendix H, page 26, my lord.

In the file, Mr. Commissioner, I see there is some evidence this individual was contravening custom regulations between Windsor

and Detroit.

MR. WILSON: My friend says they were not and why were they refused?

THE COMMISSIONER: The first application was refused.

A. What was the information, Mr. Lawlor, you wanted?

MR. LAWLOR: Q. I wanted to know: On what basis did you refuse the first application, the basis of that? What fact, that the applicant was simply -- he had not committed any offence but it simply says, "would not be beyond committing illegal transactions if he thought he could succeed".

A. Are you referring now to the Provincial Police report?

Q. Yes, the Provincial Police report. At the bottom of page 2, I think.

A. Well, they refer to one of the applicants, that he has at different times in the past, but not always, has been on the fringe in investigations, he is a free spender and from information received he would not be beyond committing illegal transactions if he thought he could succeed. The rest of the report, I cannot see, sir, is a resume of the facts. The Provincial Police conclude that application should not be granted. I take it it was on that basis.

Q. I see.

A. That I turned it down. There is a letter from the Leamington police.

Q. There is no objection in that letter.

A. No. They say:

" I do not think a charter "should be granted to the club "unless the various positions of "the club are held by Canadian "citizens."

Q. That is the summary. Then, they mentioned that the applicants -- Well, I take it that is no objection. The applicants, I see, are all from Leamington and there is nothing in their letter to indicate that the applicants will not be Canadian citizens.

Just two or three more questions, now, Mr. Cudney. On the Centre Road Vets Club, which I, too, approach with trepidation, you said at page 12904 of your evidence, that, as a result of certain questions asked by Mr. Commissioner, that you had no illusions about the good faith of this club at the time that the Provincial charter was granted.

A. No, I didn't. That is correct.

Q. Then, I ask you a question which I asked Mr. Cosson: Did you keep these -- These were extraordinary situations, weren't they, these

three clubs?

A. Yes, they were. We haven't ever had a situation like it before.

Q. Or since?

A. Or since.

Q. In any event, would not these clubs, and particularly the Centre Road, be in your mind during the summer, after July, and into the fall, as to whether or not, having been granted this extraordinary privilege, it was carrying it -- It was, particularly when you had severe doubts as to the bona fides of the people involved, was this in your mind at all?

A. Well, I suppose it was but, after all, our Department, the Provincial Secretary's Department, is not a policing department. The authorities knew as to the issuance of these charters and the provisions that were in them and it was for them to look into it and, if there was anything wrong, bring it to our attention.

Q. In any event, you would not give any type of memo to the police and ask them to make any special surveillance of the property to see whether the charter provisions were being carried out?

A. Well, I don't think that was necessary. We advised the Attorney-General's

Department. The Provincial Police is a branch of that Department. The Main Office knew about the issuance of the charters and the basis upon which they were granted, on good behaviour, and we were waiting to see what happened.

(Page 13300 follows)

D/1/ADO

Q. My problem is that this problem of good behaviour -- in other words, you are saying, insofar as you are concerned, you felt that good behaviour business was somebody else's responsibility?

A. Well, they alleged that they were innocent and the charters were given -- well, to bring them under Provincial control, and after that the charter, to my mind, was issued to them and to everybody else providing they were of good behaviour and once they stepped over the line the charter was cancelled.

Q. But nothing was done on your initiative to check on them?

A. No.

THE COMMISSIONER: The jurisdiction of the Provincial Secretary's Department does not include a checking department.

MR. LAWLOR: I know that, and one of my submissions is maybe it should be.

Q. In Appendix K there is a considerable list of types of clubs, and the police indicate that four or five or even six clubs were tied together on the same premises in the City of Toronto, and there were interlocking directorates and this kind of thing. Has any type of report been asked from anybody outside of Toronto of similar circumstances in other cities?

A. It was asked for by the Provincial

Q. My question is that this problem of good behaviour -- in other words, you are saying, insofar as you are concerned, you felt that some Inspector Sandiman was somehow simply overpowering?

A. Well, they alleged that they were innocent and the answers were given -- well, he became some sort of [illegible], and after that the character, to my mind, was issued to them and to everybody else providing they were of good behaviour and once they stepped over the line the character was cancelled.

Q. But nothing was done on your initiative to check on them?

A. No.

THE COMMISSIONER: The jurisdiction of the Provincial Secretary's Department does not include a checking department.

MR. DAVIDSON: I know that, and one of my suggestions is maybe it should be.

Q. In Appendix K there is a considerable list of types of clubs, and the public hearings that four or five or even six clubs were tied together on the same premises in the City of Toronto, and there were interlocking directorates and this kind of thing. Has any type of report been asked from anybody outside of Toronto of similar circumstances in other cities?

A. It was asked for by the Provincial

Police.

Q. Yes?

A. Because the Provincial Police cover the anti-gambling outside of Toronto.

Q. Well, I may be behind on this. Is there such a report in our possession?

THE COMMISSIONER: No.

THE WITNESS: There was a report.

THE COMMISSIONER: Q. Not of interlocking?

A. Not interlocking, no. Well, this report by way of K, I telephoned Chief Mackey and asked him for a list of the clubs that the Metropolitan Police had complained about. At that time it was years and it was maybe ten years, and it goes back to the early view. We could have mucked about. They were mixed up in thousands of pages, and this list of the complaints made to the Department early, in respect to clubs over the last ten years, in fact of any club that we had jurisdiction over, it will show every one has been cancelled, or if it has not been cancelled, cancellation letters have been sent, and the reason it has been held up was because of court proceedings.

THE COMMISSIONER: Or this Commission. Either court proceedings or this Commission.

THE WITNESS: Yes.

MR. LAWLOR: Q. In the heading of "Criminal

Records" as a ground for refusal for incorporation, I believe you said in your evidence that you have refused a share capital corporation on moral grounds only at one time or in one instance on criminal convictions. Do you recall that?

A. Yes. When you say "moral grounds" in the sense someone who had a whole series of convictions and they are incorporating limited liability companies one right after the other. That is what you mean?

Q. Yes. Those are the grounds we set up, as I recall.

A. Yes.

Q. There are instances which have not been put as just yet, where you refused in some cases to grant incorporation for one of the applicants had a criminal record. I refer specifically to that of the Martindale Social and Athletic Club, Appendix I, page 76. Also the 20th Century (Service) Club, also Appendix I, on page 111. Then there was the Walker Homesites Athletic Club, the same appendix, page 115. And in the case we just discussed of the Leamington Rama Club. They wouldn't be all bad illicit transactions. And also in the case of the Kretero Benevolent Association.

THE COMMISSIONER: I am going to lose

track of your question.

MR. LAWLOR: So am I.

Q. That is the end of the question. The question terminates. This is correct?

A. Yes, we have turned down applications because the people associated with the club had criminal records. In the case of the Kratero, as suggested in H, on page 10. The reason in the Toronto Police report was dated June 3rd, 1960, and after referring to a conviction of one member for a breach of the Excise Act and the zoning regulations of the area proposed concluded:

"The applicants appear to have no "definite purpose in mind in "regard to the use of a charter."

etcetera. The application was refused by the Department.

Q. Do you recall that?

A. Yes.

Q. I think the rest is argument. I have only one final question. I have grave difficulty in knowing how quite to put it, and it concerns the approaches to the nature of black lists. I am enquiring, Mr. Cudney, as to the departmental policy, perhaps, in connection with black lists. I am suggesting it might have been a wise policy during the 50's that when a particular individual or a

particular address became suspect as a result of conviction, say, against that person or address, that this might have been noted and that when a subsequent charter comes in to the Department that either this individual, as an applicant or perhaps even as a member, if you get that far -- but when an applicant or this address, say the second time this address , which had already had a conviction against it, that you in your Department would have cognizance of the presence or the possibility or the suspicion that this may not be a legitimate social club incorporation.

Was that ever thought about or talked about in the Department?

A. It might have been. I can't recall exactly, Mr. Lawlor, but I will say this application would be referred to the police, in any event, and they have these records in their department and they would catch it. We are going to refer the application to the police anyway. They have all those records. That is their business.

Q. That is what I thought the answer would be.

A. There is no point in keeping a list in two places.

Q. There is not?

A. I would not think so,no. I mean,

after all, we act on the recommendation of the police and their set-up of record systems, and so on. They are going to advise us whether or not — what the situation is in respect to this club.

Q. All right. Well, there may be just one other thing.

THE COMMISSIONER: I thought that was your final one.

MR. LAWLOR: All right, I will leave it.

EXAMINED BY MR. WILSON:

Q. Now, the brief that has been filed on behalf of your Department and the appendices thereto, are all based on incorporations and actions that have occurred since July 1st, 1950?

A. Yes, all incorporations since July 1st, 1950. The cancellations that are covered by the brief, some of those and most of those incorporations go back to before 1950.

Q. Yes. Now, I have made a list of the clubs mentioned by Mr. Estey, which totals 33. I notice that the earliest one in point of time, the date of the letters patent

B/2

was 1915 and of this group, 23 were incorporated since July 1st, 1950, and 10 after that date.

You can take my word for it.

A. Yes.

Q. And you can check that.

A. Yes.

Q. Now, when we cover a period back to 1915, we are covering, I believe, based on the evidence, approximately 3,000 social clubs that have been granted charters?

A. That is true, yes.

Q. And prior to your cross-examination the counsel for the Liberal Party asked the Commissioner to direct you to make available, or your Minister to make available, the files of some 113 clubs. 113 clubs.

A. 113, yes.

Q. And I understand before you were cross-examined, a staff of some six or seven spent how many days in your Department reading over these 113 files?

A. I think it was about a week.

Q. Yes?

A. About a week.

Q. And they were allowed to read not merely the public file but the confidential "Q" file?

A. All information that we possibly had. All information we had in respect to

these clubs.

Q. And these were the only files which they asked to read?

A. Yes.

Q. Now, dealing with this group of 33 which were referred to in evidence here, I find that 24 have been cancelled and 9 are continuing. The charters are still in force?

A. That is true, yes.

Q. And of the 9, I think you will possibly agree with me, have been broken down in this fashion: 3, there are proceedings pending for cancellation, namely, The Atlas, Arlington and the Parthenon?

A. Yes. These three proceedings are pending for hearing leading up to cancellation.

Q. There are 2 which are not operating, the Italian-Niagara Frontier Club and the San Sun Club, because both these clubs have not been able to obtain premises which meet with the approval of the police?

A. Yes. I understand from the police that neither club is operating.

Q. That the Niagara Club is operating?

A. That neither club is.

Q. Is it correct they are both trying to get premises that the police consider satisfactory?

A. Well, the Niagara Club has been

trying to get premises. The Sun Sun, they tried once a year or a couple of years ago and they were turned down. You could say they are both trying to, yes.

Q. Now, that leaves 4 out of 9 which are still operating and they are the Toronto Chinese Athletic Club -- the Anti-Communist Club of the Toronto Chinese Athletic.

A. I don't know whether they are operating or not.

Q. Well, since the supplementary letters patent were issued to those two clubs, has your Department had any complaints?

A. No, no. There have been no complaints since that time.

Q. And the other two are the Tisdale and the Aptor, and in either of these cases have you any complaints?

A. There have been no complaints in respect to the Aptor. I don't recall any complaints in respect to the Tisdale. I am quite sure there have not been any.

Q. As of the date Mr. Winterseyer made his speech, November 29th, 1961, what outstanding complaints from the police chief in respect to any chartered social clubs, have you had?

A. Well, from my records, Mr. Wilson --

THE COMMISSIONER: What do you mean

"outstanding complaints"?

MR. WILSON: Any complaints that had not been dealt with by the Department.

THE WITNESS: Well, from my records, Mr. Wilson, first of all I said 11, but when you say "outstanding", that hadn't been dealt with, that 11 included the Sun Sun and the Somerset, that had been dealt with in the sense they hadn't been permitted to move to new premises but the charter had not been cancelled. They had been dealt with in that sense. But apart from those two, any there were 9 others that were received at that time, police complaints, and were being dealt with. All 9. I had sent cancellation letters out to the clubs, to all 9.

MR. WILSON: Q. That is prior to the speech having been made?

A. Yes, that is prior to the speech having been made, and of those 9, some were being held up because of court proceedings, such as the Bellevue and others, hearings had been held and we were awaiting the transcript or I had received the transcript and had forwarded four on November 24th to the Minister. On the others, hearings were pending.

In other words, when you say, Mr. Wilson, this, that the police had complained and that hadn't been dealt with. First of all, I said 11.

Two, the Sun Sun and the Somerset had been dealt with in the sense that they had been refused a move, but the charters not cancelled. And that leaves 9 and of those 9, cancellation letters had been sent out to all and they were in different ---

Q. Different stages of being processed?

A. Yes.

Q. Now, there has been some reference in the evidence to some possible sales of charters, and I think the earliest in point of time was the anonymous letter in 1958, in the case of the Queen City.

A. Oh, that was a note.

Q. An anonymous note, not a letter.

A. I think that was a note.

MR. ESTEY: It was not anonymous.

THE COMMISSIONER: See Mr. Keyfetz.

THE WITNESS: That is the one, that was a scare.

MR. WILSON: Q. At what stage did the Department consider that the possible sales of these charters was a problem which should be dealt with?

A. Well, over the years, when the policy started, from 1950 to 1960, the odd police officer in the department had mentioned --

THE COMMISSIONER: Q. The odd what?

A. Police officer in my office, rather.

Q. Who had come to your office?

A. Who had come to my office on some other matter, but not normally on that matter, but incidentally in conversation would mention it. The odd police officer. It was formally repeated when I spoke to Chief Mackay in January, 1960. He was in my office regarding the complaint of the clubs moving about with the old charters, and I made a recommendation, after discussing it with the Chief, to freeze them. That no club could -- legislation, that no club could move without permission of the Provincial Secretary.

MR. WILSON: Q. Well, was that the first time the police had brought that matter to your attention?

A. Formally to my attention, yes. The odd officer had mentioned it, incidentally, over the years.

Q. And you promptly took action to deal with it?

A. Yes. As a matter of fact, the legislation became law within three months or a little over three months after the conversation.

Q. Now, you have served under both Conservative and Liberal Ministers?

A. Yes, that is true.

Q. And regardless of political complexion, have any of those Ministers in any

way endeavoured -- in any way interfered with the carrying out by you of your duties?

A. Well, if, by "interference", it is a kind of coercion, perhaps, I could say there has never been any coercion whatsoever. There has never been any coercion whatsoever either from Ministers or any other members of any party.

Q. I am speaking now for the moment of Ministers.

A. Ministers, yes.

Q. And what about the former Prime Minister, Mr. Frost?

A. There has never been any interference or coercion.

Q. Now in your capacity as Deputy Provincial Secretary I take it, you receive representations from Members of the Legislature, from all political parties?

A. That is true. They will see me in respect to some matters that a constituent would speak to them about, to make an enquiry to see what the matter is about. But as I say, if I may be permitted to say, my lord, as I said the other day, I have never regarded that as political interference or pressure, because they know I wouldn't be influenced by politics. This comment -- I submit this, that no member of any political party -- I mean,

it is part of his job or duty to take up a matter a constituent wishes him to, or to make some enquiry about it.

Q. Probably more so if he happens to be a lawyer?

A. That is true, yes.

Q. And has there ever been any attempt to coerce you in regard you to your duties, by any of those representatives of any of those parties?

A. By no party has there been any attempt at coercion.

MR. WILSON: I think that is all. That is all, thank you.

THE COMMISSIONER: Yes.

MR. ESTEY: Mr. Commissioner, while Mr. Cudney is still in the box, the Commission counsel has raised a point rather neatly, that by reason of the fact that I did not deal with 119 or 140 clubs, that I found the rest of these clubs to be clean. What I did, and I would like to assert now, perhaps subject to your lordship's direction, and leave it at that. I elected on various headings, as indicated throughout the inquiry, those clubs which I thought would assist the Commissioner in deciding point 1 in point of reference by this Commission. By reason of the fact that I didn't sore the Commissioner unduly by

repeating all the clubs and rather confined my examination to 33, I felt I had imposed on your lordship's time sufficiently on the point I was making. I don't want you, Mr. Commissioner, or anyone else, including Mr. Wilson, to take it that I didn't have a greater number of clubs which illustrated this. There are more clubs, and if the Royal Commission so requires, I will be glad to go through Volume 2 of my notes. We have only covered Volume 1. It puts us in a rather odd position. It is counsel's right here to dig out the facts and circumstances which will assist your lordship in investigating the field and to help form a conclusion as to what, if anything, should be done, and that, we have tried to do. I want to be very clear that if I am wrong in my analysis of our role and in the presentation which I havetried to make, I can't say I would be glad, because I find it a very boring proceeding, but I would proceed to examine on the balance of the files which I wrote.

MR. WILSON: I think my friend, what he is saying now, is more for argument than anything else. Certainly he has had the opportunity to examine any files pursuant to your direction and he has elected to examine 113 and he has elected to deal with certain of

those files here. Now I understand ---

THE COMMISSIONER: Are you through with this witness?

MR. WILSON: This witness passed me a note. There is something further he wants to say on one point.

THE COMMISSIONER: All right.

THE WITNESS: Well, I just wanted to say, my lord, the former Ministers who have not been here to speak ---

THE COMMISSIONER: Q. Speak a little louder.

A. I want to say, my lord, the former Ministers who have not been here to speak for themselves, and Mr. Frost, who has been mentioned, I have the highest respect for all of them and for their sincerity and I have the utmost confidence in their office, and it was a pleasure to serve with them.

THE COMMISSIONER: Now, is everybody through with this witness?

MR. WILSON: I beg your pardon?

THE COMMISSIONER: Is everybody through with this witness?

MR. WILSON: I think so, Mr. Commissioner.

THE COMMISSIONER: All right.

---The witness withdrew.

MR. WILSON: There is one very short witness we have. I don't know whether you want to take him now.

THE COMMISSIONER: That is Ayter?

MR. WILSON: Yes. Mr. Hall is appearing as solicitor.

THE COMMISSIONER: He will be only two or three minutes, I take it?

MR. WILSON: As far as I am concerned, he will be. Mr. R. R. Hall is appearing.

THE COMMISSIONER: What does the R. stand for, Mr. Hall?

MR. HALL: Robert, my lord.

THE COMMISSIONER: What is the witness's name?

MR. WILSON: Sam Saltzman.

SAM SALTZMAN, sworn

EXAMINED BY MR. WILSON:

Q. You are the treasurer of the Apter Friendly Society?

A. I am, and I have been treasurer for the last four years. Previous to that an executive member for four years.

Q. What are the aims and objects of the Society?

A. The aims and objects of the Apter Friendly Society -- First of all, I want to explain the name Apter. Apter is a short form of a town in Poland which we originally come from. Since immigration started, people started to come over to Canada and a new language and everything and we wanted to promote friendship and take them in and help out each other. It is a non-political organization.

Q. How many members are there in your organization?

A. We have approximately 135 members.

Q. Who comprise this membership?

A. We have members from all different walks of life. We have workers, professional men and all different kinds of people from the City of Toronto.

THE COMMISSIONER: Q. They all come from

this particular area in Poland?

A. They are all Apter or married to Apter.

Q. They are all what?

A. For instance, if I have a daughter --

Q. Inter-married?

A. Inter-married.

MR. WILSON: Q. Why did your organization apply for a charter in September, 1959?

A. We were advised by our solicitor that it was needed when we held property. We have a burial ground, cemetery. So each member who belongs to this organization has a plot, and we got it in trustee's name, but as it happened, one trustee died all of a sudden and the other trustee is between the 70 and 80's. So we have always trouble with these trustees, so the solicitor advised us we should take out a charter.

Q. Are there any other memberships in association with your organization?

A. Yes, we have four groups in that association. We have a synagogue, a free loan association, a ladies auxiliary and the Apter Friendly Society.

Q. Have you had any complaints of your organization's operations before or after the issue of the charter?

A. Yes, as a matter of fact I heard

two complaints we had in the organization. One was the complaint that there was a lot of flies out by the garbage can and the other complaint, it is a three-storey building and had only one fire extinguisher.

Q. Was there any payment made to anyone, beyond the normal legal fees, in order to enable your club to get this charter?

A. We don't run a big organization so I, as treasurer, must sign every cheque, and I can vouch and I swear on this stand that there has been nothing issued except for the legal fees to the solicitor.

Q. To your knowledge, has any gambling taken place or is it permitted on the club's premises, 215 Beverley Street, Toronto?

A. First ofall, it is not permitted in our constitution to have any gambling. And second of all, we have only a meeting once in two weeks, and this is Sunday from one to three o'clock, otherwise except Saturday, which we go to worship there in the synagogue which is located in the building. The only person there is the superintendent, and if anybody wants to go in, he has to ring the bell to open the door.

MR. WILSON: That is all, thank you.

THE COMMISSIONER: Any questions?

MR. HALL: My Lord, we appreciate the opportunity of making the submission for the simple reason, I think this is quite obvious, that a Minister of the Crown made statements which reflected on Mr. Grossman, who is a member of this Society, and its executive have been badly maligned in the newspaper reports which ---

THE COMMISSIONER: Do you want to ask this witness any questions?

MR. HALL: No, I am sorry.

THE COMMISSIONER: Just reserve your comment till we see if anyone wants to ask any questions.

MR. ESTEY: I have just one or two.

EXAMINED BY MR. ESTEY:

Q. I am only interested in a limited phase of this matter. Did you have in your Society at one time, all or any of the following persons as members? John Cowitz and Alex Cowitz?

THE COMMISSIONER: Yes, who else?

MR. ESTEY: John, Alex and Meyer Cowitz. Louis Goodman and Sam Goodman.

Q. Were any of those people members?

A. I believe from the Cowitz. I

believe there are two who were members in the Apter Friendly Society. But the other ones, they don't sound familiar.

Q. You don't remember those names?

A. No, I can't recall it. We have a Goodman but it is a different Goodman.

Q. M.M.?

A. I believe so. From Newmarket.

Q. Well, didn't you apply for incorporation and have the application refused, and then you amended the application to change some names?

A. I don't recall that.

Q. You don't remember that?

A. No.

Q. You don't remember the names were changed because some of the applicants, who were members of your Society, had records for gambling?

A. Well, since I am only in this country sixteen years, I don't know what the applicants did before.

Q. I know. I am not suggesting you are in any way responsible. I just want you to answer the questions.

A. Yes. I can only say that as far as the Apter Friendly Society is concerned, there is no gambling whatsoever going on on the premises.

Q. I understand that. You are not on trial, nor is your club on trial.

A. I realize this.

Q. Didn't you have to put some members out of your Society because they were gamblers? Didn't you do so?

A. In private life, we don't interfere. We are a non-political organization. The only thing, if a member pays up his dues, which is very nominal, he is entitled to five doctors' bills a year. He pays $16.00 and is entitled to five doctors' bills, which the Society pays back $15.00. Only carrying charges during the year to keep up the cemetery and the plot is a dollar a year.

Q. You are going to put medicare out of business if you keep on. All I ask you, did you put anybody out of your club because they were gamblers?

A. I can't tell you ---

Q. Weren't the Cowitzes put out because they were gamblers?

A. I don't even know if they were gamblers. If it is not for this business, I wouldn't even know what they are doing.

Q. You are not a gambler?

A. We are not interested in the professions, what they are being besides Friendly Society. When we get together once

in two weeks, we say hello and find out if there is any sickness or person in need or a few dollars and we try to help him out. We helped the United Appeal and the Cancer Fund and all the other funds in the City of Toronto.

Q. You are very helpful. I would like you to help me. Just answer my question. Perhaps you think you have answered it. These Cowitzes were on the application?

A. Yes.

Q. And we are concerned with the first application. There was some objection, I understand, because of the Cowitzes, and they were withdrawn from the Society somehow. I want to know if you know that?

A. I can't say yes or no.

Q. All right. Now, one last question. Your Society has, for some time, owned land?

A. Yes.

Q. A cemetery?

A. Right.

Q. And apart altogether from your desire to incorporate for other reasons, to carry on your other activities, you really needed a charter because you wanted to hold that land?

A. That is right, in the charter club instead of trustees. Individuals.

Q. Your lawyer told you you could get

a charter and it would be perpetual, the land could stay inthe charter and the members could die and the land would stay in the charter?

A. Yes.

Q. And that is the reason you incorporated?

A. Right.

EXAMINED BY MR. LAWLOR:

Q. Do you know the Cowitzes personally at all?

A. No.

MR. LAWLOR: That is all.

EXAMINED BY MR. WILSON:

Q. There is only one point. I think my friend, Mr. Fetey, inadvertently left the suggestion that the Cowitzes -- the applicant was one of the three Cowitzes named by him as having some previous record. The applicant was Isadore William Cowitz, and the people mentioned by the police were John, Alex and Meyer Cowitz. There is no suggestion any of the applicants had any record.

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MR. RATEY: I think that is right.

MR. HALL: Q. Mr. Rush, was he a member who was told to get out?

A. He was stricken from the records and disbarred from the Society.

THE COMMISSIONER: All right.

---The witness withdrew.

MR. HALL: My lord, we welcome this opportunity to make this submission, and it is quite obvious, although we appreciate that your lordship has no control over the items that appear in the daily newspapers, we feel and hope the gentlemen of the press will correct the impression they have given in the newspapers with material that has not only been scurrilous, but it is, with respect, highly libelous. I refer to the Toronto Telegram, Friday, October 12th, referring to Mr. Grossman, with this sub-headline, "Backed Bookie's Request".

Then in the Globe & Mail, first edition, Tuesday, October 16th, referring to the members of the Legislature, "The Cabinet Ministers, Mr. Lewis, Mr. Walker, Mr. Michener and Mr. Grossman, who were mentioned at the Commission in regard to gambling clubs disguised

as social clubs."

Then in the Toronto Star of October the 12th, "Three top Tories intervene to get charters for social clubs under police suspension."

My lord, this material which is not only false, but as I say, is libelous and we are contemplating libel actions against them for printing this material. There is no evidence at this Commission hearing that the applicants had any records against them.

At page 12601 it says:

"No file was found on any of
"the applicants listed."

That is Provincial Constable Moore. Mr. Moore goes on to say:

"I see no reason why their
"objects cannot be attained
"with or without a charter."

Here we get into the realm of a police officer going around and commenting on police administration. Your lordship even questioned it at page 12604:

"No reason to object to charter."

And then at page 12588, Chief Mackey says:

"And having nothing definite I
"am inclined to believe this will
"be another gambling outlet in
"the City of Toronto."

I think we can thank the Lord, in spite of the Police Chief and the policemen because they believe there is nothing definite but they are inclined to believe that charter should not be granted. I think that this charter, and I think Mr. Cudney and I think anybody here present would agree with the fact that there were no files found on the applicants, that nothing Mr. Greenman did for the constituent was wrong. I think the record should be clear, there is no evidence before this Commission hearing of backing bookies' requests or that this Apter Friendly Society is a social club masquerading as a gambling club. I think the record should be clear as to this point. I think the newspapers have printed these things in a manner toembarrass members of the Government and to embarrass my clients, the Apter Friendly Society.

THE COMMISSIONER: We will adjourn until 2:15.

---Whereupon at 1:15 p.m. further proceedings were then adjourned until 2:15 p.m.

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---Upon resuming at 2.50 p.m.

MR. WILSON: I will call the Honourable Mr. Frost.

LESLIE M. FROST, recalled,

THE COMMISSIONER: You were sworn when you were here before, Mr. Frost?

A. That is right, sir.

EXAMINED BY MR. WILSON:

Q. There have been certain matters mentioned in evidence in the last few days where your name has come into the account dealing with the "paraphernalia clause" in the regulations, and its application to certain clubs. I understand that you had something to do with the original writing or establishment of that particular clause?

A. That is right, sir.

Q. And ---

A. As a matter of fact, I wrote the last sentence of it myself.

Q. You wrote the last sentence yourself ?

A. That is, the paraphernalia ---

Q. That is the paraphernalia portion of what is now Regulation 61, paragraph 23?

A. 23, that is right.

Q. Now, in Mr. Gudney's evidence where he was dealing with the Toronto Anti-Communist -- or, the Toronto Chinese Anti-Communist Club, he referred to a memorandum given to him dated -- by Dr. Phillips, the then Provincial Secretary, dated May 20th, 1950, and this is the way it reads at page 12885, quote:

"A. May 20th? Dr. Phillips to "myself re charters for Chinese clubs:

"' I was talking to the Honourable "Prime Minister late last night "and he advised me to delete on "the Chinese charters that there "be no gambling paraphernalia "on the premises.' . . . . "

And then it goes on to speaking about the Gordon Report. Now,what knowledge have you of any instructions as suggested that might have been given by you to Dr. Phillips?

A. Well, your lordship, first of all, in answer to Mr. Wilson's question may I say this, that this must have been complete and total misunderstanding on the part of Dr. Phillips. But, before answering that, might I give you the history and the background of

this thing in a very few words?

THE COMMISSIONER: Yes.

MR. WILSON: Q. Yes, if you would?

A. I might say this, sir, I have a note here which I will be very glad to give you or file with the Commission if you like: It is a not e which I made when I arrived in the city last night, and I did it to reduce down to understandable and measurable terms what took place, and I may say this, sir, if I make this statement, then, I am perfectly prepared to be cross-examined or confronted with it in any way.

I want to say this to you at the outset, and I may say I did tell Mr. Wilson this six months ago, and I also told you when I phoned you about six weeks ago about this item.

MR. WILSON: That is correct.

A. I want to say this, sir, first of all: I am very desirous of being helpful to this Commission and to yourself, sir, in connection with the problem you have. I may say this, sir, that I have never temporized with crime, big or little, in my day in public life or elsewhere.

Now, sir, I would be pleased to tell you -- now, I think, these items that I mention might very well be in camera but, on the other hand, I am perfectly prepared if you -- after

you have considered them -- want me to do it in open court or in open Commission, I would be perfectly prepared to do so.

First of all, I want to tell you that I created the Ontario Racing Commission with all its arbitrary boards, and I got the toughest guy around for that job, Tupper Bigelow, and I did it, and I can tell you some of the criticisms I had because I did do that, and I would be very delighted to do that, even though that is something that goes back a dozen years.

And, the second thing I would tell you is this, on the racing, on the harness racing, I did ban it. Probably it wouldn't have stood the test of the Courts, but it unfortunately never ran that test; why I out-regulated it and why I did do that, and I did that through all sorts of pressures from all sorts of people -- and I am not indicating any bad people at all -- there were many people, from farmers who were raising horses and from opposition members whom I was never really able to satisfy in any way whatsoever in my lifetime, but I may say these things involved millions of dollars -- and I am not talking about some of the things this Commission has been seeing -- I am talking about something that

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could run into millions of dollars when I banned that, and that it remained that way until, I think, the spring of 1961.

I can tell you, sir, about conversations. I would be delighted to give you the details of conversations I had with New York and with the Michigan authorities concerning crime rings and dope rings, and all the rest of it. And, I would say this, I could tell you what I did in connection with high-grading (in their language) which involves money in the millions, and involves international rings. And I could tell you what I did, then, in the Governments of Ontario and Canada, and with the Police Forces in Canada.

I would like to tell you of all those things if it is of value to this Commission.

Another thing is these discussions I had with the Commissioner, Commissioner Harvison, of the Royal Canadian Mounted Police; these were not casual, sir, these were calculated discussions, there were three in Ottawa and at least two here in Toronto in which I discussed people and affairs with him very frankly, and this is quite open, I am perfectly prepared to give testimony here to you about that and, as a matter of fact, you may ask the Commissioner about anything that I said to him in relation to these things.

Now, sir, all I have said here is this: I am anxious to be helpful, and I want to assure you of this, sir, at no time have I ever temporized with crime, big or little, or above ground or underground. Now, that is the situation, sir.

Now, may I say in connection with this matter that you are ---

THE COMMISSIONER: This regulation?

A. Yes, this regulation, sir; I will come to that and deal with that, I think, very quickly.

Q. Can you give us just the history of that regulation to start with?

A. Yes.

Q. Where did it originate in the first place?

A. I will be very glad to tell you about that, but if you will pardon me, sir, for a second, I will say this: I was up shooting -- I was up shooting and, by chance, a copy of "Canada's National Newspaper" came into my hands, and I noticed that Mr. Cudney is said to have told the Commission -- but which I understand, probably, he did not say to the Commission -- but that:

"Former premier Leslie Frost issued "instructions that two Chinese clubs "in Toronto be permitted to keep

"gambling apparatus on their premises,

"despite contrary regulations."

I want to say, sir, that that is completely wrong. I never did anything of the sort, and if Dr. Phillips feels that I did -- and I have the highest regard for Dr. Phillips -- but, I may say that he must have completely misunderstood the situation.

Now, in the "Star" they say, "Link Frost To Changes in Chinese Club Charters". Well, I may say that didn't add anything ---

THE COMMISSIONER: Q. I would think your aim wasn't any better in the hunting expedition after reading that?

A. No, it did not improve my aim, and I wasn't very lucky. But, I am here in good humour, sir, and I am anxious to be helpful.

Now, the situation is this: You mentioned Regulation ---

MR. WILSON: Q. 61, 23.

A. 61, subsection 23. Well, sir, what happened was this ---

THE COMMISSIONER: Q. Excuse me, I was asking you where it originated in the first place.

A. Where it originated, sir, was this: Its first origin, my recollection is, that The Honourable Mr. Nisbener, when he was Provincial Secretary, he then framed what

were to be departmental policies in connection with that, dealing with charters. Now, I think it was 1950 -- I can get you the exact date and get the names of those who were present at the conference -- the Mayor of Toronto, then Mr. Hyram McCallum, together with the then Chief of Police -- now, I presume that would be John Chisholm, and there may have been their solicitor, and there may have been others but, in any event, I very well remember McCallum, and I know the Chief of Police was there -- came to me in relation to the Michener (what I will term "the Michener policy" for purposes of brevity), and actually, what was done there, Mr. Michener collected a number of points that were in vogue at that time, and he embodied them into a departmental policy, but it was not codified into a regulation, as I will explain later.

In any event they, Mr. McCallum and those with him, told me of their difficulties in connection with social clubs.

I want to say this, sir, social clubs are phenomena of these days, sir. We have all kinds of them; ethnic clubs, religious clubs, all manner of clubs, and in some of these clubs their charters lend themselves to unscrupulous people to use for their own financial gain, and also they go into

the liquor business, but this is not the time to go into this, unless you want me to.

In any event, arising out of this, I discussed this matter with these gentlemen, and I think Arthur Welsh was the Secretary, but I would have to check that up, but I think it was -- arising out of that, I said that I would do everything possible to give

AA/3 them the powers to get these people who were damaging the social clubs -- give them the powers to put this situation right. You had these unscrupulous people who would step in to try to use these clubs for their own personal gain. And, as a matter of fact, sir, I wrote this -- I did this after consultation with them, but I actually wrote this with my own hand, and these words are familiar to me. After consultations I had, I put this in at the end of the last sentence:

". . . or provided with any means
"or contrivance for playing any
"game of chance or any mixed game
"of chance and skill, gaming or
"betting or with any device for
"concealing, removing or destroying
"such means or contrivance, these
"letters patent may be cancelled
"by and in the discretion of the
"Lieutenant-Governor." -

The Lieutenant-Governor in Council.

Now, sir, at that time, that was in 1950, and at that time I also provided that a social club must have and be limited to a permanent address. Now, that meant that they could not give Toronto or Lindsay, or some other place, as their permanent address; they had to have a street address, and that was it, that was where they carried on and did business, and if they changed that, then, it had to be by supplementary letters patent.

Now, also, I provided this, that every application, regardless, every application had to refer to the place to get their report on it, first of all.

Now, I want to say this, sir, after all, these things have to be taken in perspective, and in so doing I did not want to infer -- nor do I infer now -- that everything that the police do is correct. I did not want to do anything as was after alleged after this, "I was turning the Province of Ontario into a police state". But, I wanted this, if there was a discretion exercised, that those who exercised the discretion would know what it was about. Now, that was the situation.

Now, sir, I might go on and go to ten years from that time, just to keep this consecutive. There were a great many charters

that had been issued before this change of 1950 and, as all these ingenious people take these things up with the result that in 1950 we had -- we had a statutory provision put in under the Corporations Act, I think it is, a statutory provision making it compulsory that there should be a fixed place and so that that covered the old charters.

Now, that was about the situation.

Now, sir, the next step in it was this, that again I referred to this matter here as being . . .

THE COMMISSIONER: Q. The regulation?

A. . . . related to policy that I, myself, wrote down in 1950 in consultation with the then Secretary. I have no doubt Mr. Cudney, who was a very valued man, was there, and that the City authorities and that the Metropolitan Police --

Now, sir, that was not codified at that time, but with the passing of the Corporations Act of 1953, I think it was, and the powers in that to make regulations, in the Act of possibly '53 , this then was codified, and it is today represented by Section ---

MR. WILSON: Q. 61, subsection 23?

A. Section 61, subsection 23, that is the one.

Now, sir, all well and good ---

THE COMMISSIONER: Q. No, it is not Section 61, subsection 23.

MR. WILSON: Regulation 61, subsection 23.

THE WITNESS: Yes, that is right. Now, sir, I would say that the next move was this: Up to that date I had succeeded in satisfying the Toronto police force, the Chief, and the others, they seemed to think this was a pretty good thing, but I could assure you of this, sir, I did not succeed in satisfying the Canadian Bar Association -- and, this is where the reference to the Gordon Commission comes into that -- I didn't succeed in satisfying them, and I didn't succeed in satisfying a great many lawyers in this Province who complained very bitterly not only of this matter, but in the workings of the Ontario Racing Commission, and probably some other things.

Now, I would say this, that the Opposition themselves - and I may say this, sir, that I found in my day Opposition to be helpful -- but I was never able to satisfy them, sir, as well as I might try. They were dissatisfied with those provisions as well, and they talked of them -- it was one of their favourite subjects, of the Bar Association, they talked about police states and arbitrary methods and

denegration of British justice, and that sort of thing and, as a matter of fact, they pressed that on me so much -- I was pressed with that so much, and having raised the point, I went to my friend Walter Gordon -- for whom I had a very high regard, and still have, despite the fact that he has slipped a little bit from favour -- in any event, I got Gordon, Principal MacIntosh of Queen's and Deputy Attorney-General Magone to act as a Commission to look at boards and commissions and discretionary powers.

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Now, sir, I may say this, again, that I often prefer my own draftsmanship, so I wrote Mr. Gordon a letter, and the letter is really the reference. Actually, we did form -- actually, we did clothe the Commission with powers of a Royal Commission, but I wrote him the letter dated the 15th May, 1958 and, I think, to read it, you will see that the sky was the limit so far as the investigation of this matter was concerned. Now, the letter is here, sir, if you are interested in reading it. It is here, but in any case, I won't bother reading it now.

But, what I did was, say this in general, I pointed out this, that in these days there was the side of the elected - the people's representatives, and on the other side, the

administrative end of Government, whether it was in boards or commissions or what it was, and I asked this Commission to look at it and see what might be done to strengthen our system of democratic government from the side of correlating these two points.

Now, that, the Commission did, and its findings are here, and they are here for everyone to read.

Now, sir, at that point that brings -- I might say this, sir, to you, that ---

THE COMMISSIONER: Q. When did that Commission bring down its report?

A. It brought down its report, sir, in the fall of 1959, September 25th, 1959 it brought in its report.

MR. WILSON: Q. What was the date of your letter?

A. My letter was dated the 15th of May, 1958.

THE COMMISSIONER: Q. Well, now, you have got three dates that stand out, and around which we may get it ---

A. Well, sir ---

Q. Just a moment. We have got the Commission set up on May 15th, 1958?

A. Yes.

Q. And that Commission was functioning in May, 1959?

A. Yes.

Q. At the time that Mr. Phillips, who was then Provincial Secretary, sent the memorandum to Mr. Cudney?

A. Yes, that is right, and then the Commission ---

Q. And then the report of the Commission, finally, of September 28th, 1958?

MR. WILSON: 1959.

THE COMMISSIONER: 1959.

THE WITNESS: I want to add another date that I think is very important, and that is this, on December 22nd, 1958 MacKinnon Phillips was appointed as Provincial Secretary; that is, he was appointed some seven months after the Commission had come into being.

Now, Dr. Phillips, for whom, as I say, I have the highest of regard -- although I think Dr. Phillips has not got a legal mind, and perhaps that is a good thing not to have in these days -- he was a great expert in connection with alcoholism and drug addiction and things of that sort, which was then administered, and probably still is, from that Department and through the Alcoholism Foundation.

In any event, Dr. Phillips became the Minister on December 22nd, 1958 -- Now, it was not, as a matter of fact, then, sir, or

about that time -- I guess it was before that time, as a matter of fact -- I took Mr. Gordon, Dr. Maslutosh and Mr. Magone before Cabinet Council and I told every Minister there that I wanted him to disclose fully tothe Commission all of thematters in which there might be arbitrary orders.

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Now, Dr. Phillips became Provincial Secretary in December of that year and I emphasized to him that is what he should do. I think he succeeded Mr. Dunbar.

MR. WILSON: That is quite right.

A. Now, shortly after that Dr. Phillips came to me and he had in the meantime accumulated considerable antipathy to Regulation 23, and he pointed out the same arguments I had heard about it elsewhere. No doubt people had probably talked to him and he pointed out to me the argument they had, that it wasn't fair to put that onus on the Minister and other things. I think myself that Dr. Phillips didn't realize it was encompassing every social charter but I do think he thought it affected the Chinese charter. I know he thought this because he discussed this with me and he went down and visited certain clubs himself and whether that was wise, whether it was a wise thing to do or not, he went down in his zeal and went to these clubs and came back and told me that this regulation was unfair. What he did say was he thought this regulation was used to oppress poor little Chinamen who played fantan, their national game, as perhaps some of our people play bingo or poker, and they are being

chased around the country and it wasn't fair and he didn't like it. I admit this, sir, and I said to him at the time, "I have sympathy with your point of view, subject to this, we have a broader problem than this and that broader problem is dealing with a person who wants to get in under the wire and use these clubs for perhaps evil purposes."

I attempted to describe this to him by myself after consultation with the Attorney General's Department and officials such as Mr. Cudney and others. I said to him I will admit the weaknesses of this regulation, I admit that I think there are weaknesses manifest. First off you take Section 23 and then take the sections of The Corporations Act, Sections 3 and 326 and 335. As a matter of fact, they pretty well give the Lieutenant-Governor in Council and with that the Provincial Secretary, really almost powers of life and death and that is what people were complaining about. I went so far as to consider the possibilities of creating a board that would deal with this great problem but I was then creating another board and another problem was there should be appeal perhaps from the Minister. These things took time. I gave evidence before and the Chief of Police -- what is the

name of that club?

MR. WILSON: The Centre Road Veterans Club.

A. Yes. That came to me in my recollection in November and it went through on the process of cancellation in January. If appeals were mixed up in it it would be perhaps still going on. I said to Dr. Phillips, "You produce a regulation better than this one and we will consider it on its merits." I said, "If you are able or if you have imagination enough to find a regulation whereby we do not step on these poor little people and yet deal with the man who wants to use our system here and use it for evil purposes, we will do that."

That, sir, was my instruction to him.

Now, just to carry this on through to its conclusion, I will come back to this later, but on the 20th of May the situation was that on the 16th of July Dr. Phillips came up with a draft regulation leaving out the paraphernalia business and other things. In any event it came to the Cabinet Council on the 16th of July and it was rejected. As a matter of fact, it went to the Registrar of Regulations on the 16th of July, where all these regulations must go first of all, and it came to the Cabinet Council and it was rejected on the 30th of July, 1959.

Now, I have that order here, sir. There is a copy of the original there.

THE COMMISSIONER: I do not think we need it. In any event, that is what happened?

A. Yes.

THE COMMISSIONER: All we need to know is it was a regulation drafted by Dr. Phillips and it excluded the references that are now in the regulations.

A. Yes, that was rejected by the Cabinet Council and the original policy under Section 50 was put into Regulation 23 in 1954 and it still stands to-day.

Now, I by no means say it is perfect. I do not think it is perfect, I think it is capable of injustices and I think it is capable of criticism, and there might be some better way of doing it but nobody has come up with that to date.

MR. WILSON:

Q. Now, I want to come back to this fact, Dr. Phillips wrote a ~~xxx~~ memo to Mr. Cudney on May 20th.

A. It says here, "I was talking to the Honourable Minister late last night and he advised me to delay proceedings."

Now, I want to say that I issued no such instructions or never intended to. I may say, sir, on May the 20th -- and I did have occasion to look it up as to

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where I was on May 19th and I slept in the Hotel London on May 19th. I had at least two secretaries with me always and I used to try to carry on with the Government when I was on the road. I seldom left the Province of Ontario and I did try to carry on the Government while I was on the road, but I may say, sir, if there was any discussion with me about that, he may have telephoned me or one of my secretaries, but I have no recollection and it certainly wasn't an atmosphere that was conducive to understanding this highly technical matter and he clearly misunderstood what I said, and that is carried out by the record.

Now, Mr. Wilson, you have another document.

MR. WILSON: Yes, copy of a letter dated July 31st, 1959.

A. Tell me this, was I mentioned in other conversations in the month of May?

THE COMMISSIONER: No, only once.

A. I want to say this, sir, I was dealing with matters of general policy and I believe there was a Chinese Anti-Communist Club.

MR. WILSON: Yes, a Chinese Anti-Communist Club.

A. It isn't on this memo here.

Now, listen, I want to say this, I never heard of the Chinese Anti-Communist Club, or if I did it didn't register with me. I was dealing with the general question of policy. And the Chinese Anti-Communist Club or Chinese Athletic Club didn't mean a thing to me. Nobody made any representations to me; I didn't think about it. It may have been Dr. Phillips did because he apparently had been inspecting these places but they didn't mean a thing to me and I never issued or intended to issue such instructions. The doctor's letter is ---

Q. The doctor's letter is at page 12655 of the transcript and it is dated July 31st, 1959, from Dr. Phillips and it says:

"Dear Les:

"Re: Chan Social Club

"The above Club was incorporated "under The Ontario Corporations Act by "Letters Patent dated March 28, 1956. "The Letters Patent limited the Club "premises to 180 Dundas Street West, "Toronto and the Letters Patent "contained the usual clause that if "the Club made any charge for gaming "the Letters Patent would be "cancelled.

"The Club has made application
"for Supplementary Letters Patent to
"change its name to Fook Lee Social
"Club and to change the location of
"its Club premises to 124 Dundas
"Street West, Toronto. When the
"application was received my Deputy,
"Mr. Cudney, in accordance with our
"practice, referred the application
"to the Ontario Provincial Police
"and to the Metropolitan Toronto
"Police. Both Police in their reports,
"a copy of which is attached, strongly
"objected to the issue of such
"Supplementary Letters Patent and
"also strongly recommended the
"cancellation of the Charter and they
"were of the view that the Club was
"conducting a common gaming house.
"The officers of the Club intimated to
"the Police that they were making a
"charge of ten cents an hour per
"player, which is permitted by the
"Criminal Code to a bona-fide
"incorporated Social Club. However,
"in view of the clause in the Charter
"which prohibits any charge being
"made, even of ten cents an hour,
"there are grounds for cancellation

"of the Charter. The Police feel that
"the Club is charging a lot more than
"ten cents an hour per player, as
"there are only ninety members which
"pay an annual membership fee of
"$25.00 and the rent is $550.00 a
"month. The Police felt so strongly
"about the matter that Sergeant
"Anderson of the Anti-Gambling Squad
"of the Provincial Police and
"Inspector Walker, Chief of the
"Morality Squad of the Metropolitan-
"Toronto Police both interviewed Mr.
"Cudney personally and made a strong
"recommendation that the Charter be
"cancelled.

"Mr. T.R. Deacon, Q.C. of
"Toronto is Solicitor for the Club
"and he has been pressing very hard
"for the Supplementary Letters Patent to
"be issued. He has called Mr. Cudney
"a number of times and advised that
"he has made representations to the
"Attorney General's Department. Mr.
"Cudney has been in touch with the
"Attorney-General's Department who
"advise that they can see no objection
"to the issue of Supplementary Letters
"Patent changing the name and the
"location of the Club premises, but

"they have no comments to make upon
"the alleged gambling and will not
"make any commitment as to whether
"the Charter should be cancelled.
"I am bringing this matter to
"your attention for your advice as to
"whether or not the Charter should
"be cancelled and as to whether or
"not Supplementary Letters Patent
"should be issued."

MR. WILSON: That is the end of the letter and then it says:

"MR. ESTEY: Q. Is there any reply
"to that letter?
"THE COMMISSIONER: Q. Why was the
"Minister asking the Premier about it?
"A. I couldn't say, my lord.
"No, there seems to be no reply.
"There is nothing on file, Mr. Estey."

A. Yes, I may say that I have no recollection of the letter but let me give you the routine of my office. First of all may I say this, that was written on July 31st, 1959. In my office there was what was known as a correspondence committee, which I suppose operates in every big office, where mail goes through a big hopper and only those referred to me would be referred to me. I have never seen that

letter. I cannot understand why Dr. Phillips would write that letter to me. Why in the world wouldn't they leave it to the machinery of the Department.

Q. Subsequently the club charter was cancelled on December 6, 1961.

A. They did the right thing although it apparently took them a little time to do it, from the evidence.

Q. I think that pretty well covers it.

THE COMMISSIONER: Mr. Estey, have you any questions?

MR. ESTEY: I am sure, my lord, I am not going to send Mr. Frost away in any worse humour than he was when he arrived.

THE WITNESS: I have gotten over it, Mr. Estey.

EXAMINED BY MR. ESTEY:

Q. Now, you are a long time member of the Bar of this province and a distinguished member, and you have practised law for a long time, and in the course of that no doubt you have incorporated many companies?

A. I am sorry, not many in the last twenty years. I am afraid I am no longer a good lawyer after twenty years out of practice.

Q. I hope the press doesn't report that back in Lindsay!

A. Oh, I think they have given me up.

Q. We have heard perhaps too much about the Centre Road Club, but to refresh your memory ---

A. Was that the club the Chief of Police wrote me about?

Q. Yes, Chief McGill. There seems to be a lot of correspondence back and forth between the Attorney General and the Provincial Secretary, and ultimately three provincial charters were issued and one went to the Cooksville Club and one to the Centre Road Club.

A. Was that one of the revised charters that resulted as a cancellation of the federal charter?

Q. That is right. It was surrendered.

Now, I take it from your reference to it at least in a general way you were familiar with the practice followed by the two Departments of your Government?

A. Yes, I don't know whether I mentioned that when I was here and gave testimony before, but I would say this, that I felt myself, and I still feel myself, that it was reasonably good sense to try to work that co-operation between the Federal and Provincial Governments. As a matter of fact, one of the complaints the Metropolitan Toronto Police made, that if they had a federal charter, they were up a gum tree.

I felt to get these charters into a position where they could be dealt with under the provincial aegis was good sense. As a matter of fact, Mr. Roberts, I notice in reading over the records, made a press statement in 1957 in connection with that. I cannot say I paid my particular attention to that, but I would go along with it as a reasonable way of dealing with the matter.

Q. I understand that, but my question was, was this step taken as a result of government policy as a whole or was it a step taken on the authority of the Attorney General?

MR. WILSON: Well, now, Mr. Commissioner ---

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THE COMMISSIONER: It isn't going to do any harm.

A. I will answer that - as I said in my testimony here before, our policy was to try and eliminate those things that might be evil.

Q. Your government was against sin?

A. Sure, I am always against sin, I have always been against sin but let me put it to you in this way -- The practice I followed was this, there is not much difference between this and a military operation. You see the fellow in command says we want to take so and so and you leave it to the commanders on the ground to do it and that is the very way it was inthis matter. It was left with Mr. Roberts, and I want to say he is a very conscientious man and has been a friend of mine since we served in World War I together. In my judgment he is a good fellow and I left it to him to work it out, to work out the details of the matter and I suppose that is what it was.

Q. That in one way or the other answers my question but I would like to get it on a narrower fanks front.

A. That is a narrow front.

Q. Did you use the Corporations Act to assist the Attorney-General's Department in

enforcing the criminal law?

THE COMMISSIONER: What is that?

MR. ESTEY: I wanted to know if the witness, as policy maker and head of the Government, approved of the use by two Cabinet Ministers of these Acts to assist in enforcing the criminal law in gaming operations in Cookville.

THE COMMISSIONER: That is too formal a question; take it down in popular language in which a country lawyer can understand it.

MR. ESTEY: Oh, I wasn't trying to do that, after all we are all struggling young fellows.

Let me put it this way: They were having trouble in Cookville and Chief McGill said "what are you going to do about it?". In any event they were having trouble and it was a club chartered under the Federal Act and somebody said, "Let us get them to surrender that Federal charter and get them under the Provincial charter".

MR. WILSON: The letter from Chief McGill didn't come until 1959.

MR. ESTEY: I don't want to fight a two-front war. I am talking about 1957 when Mr. Roberts made a press announcement. The press announcement said that they couldn't touch these Federal companies - "We cannot

touch these Federal companies and rather than get into legal technicalities let us get them out of the Federal field and we will have Section 23 which Mr. Frost has read.

THE WITNESS: It is a very good regulation some people say.

MR. ESTEY: Q. The fact of that really is you were using the Ontario Corporations Act to get the gamblers in Cooksville, give them a legal entity which you could bring within the criminal law, is that right?

A. Yes, it is.

Q. You are a lawyer, though you may allege to be a small town lawyer, you know the Corporations Act has been in existence since the turn of the century, and you know it says that the Provincial Secretary, before it issues one of these charters, shall determine the bona fides of the applicant.

Now, I think you will agree that was well known to the Government and to your Attorney-General and to the Provincial Secretary when you gave these gamblers a charter.

A. May I ask you this, if I may ask you a question, if your reasoning had been followed, then this Vets Club would still be in business and the Vets Club is out of business and the two proprietors are on their way to jail.

Now, as I heard in a play at the Grant Theatre the other night, I fight the devil with fire.

Q. Fight the devil with fire?

A. I used to be able to.

Q. Now, you suggest some of the fire may have been burned out?

A. In the amendment to the Corporations Act in 1960 we did that same thing. I think we fought the devil with fire there. It was retroactive and some people may object to that but we did it.

Q. Let us talk about that for a minute. You said the Canadian Bar Association had some unkind things to say about your Boards and your Commissions?

A. They had plenty.

Q. I was not a party to that.

A. Were you on the committee -- ?

Q. The Canadian Bar Association had something to say about restrictions in letters patent?

A. Yes, I had lawyers complaining about that all over the place.

Q. Well, lawyers are known as complainers.

THE COMMISSIONER: Surely the Bar Association didn't complain about the government putting restrictions on letters

patent. As I have said before, you were the master in your own house.

A. They didn't complain about restrictions of that sort but what the members of the Bar Association were complaining about were certain arbitrarily unappealable features.

MR. ENTEN: Q. Now the truth of the matter is this, that there was no right of appeal.

THE COMMISSIONER: Let us get back on the track, keep on the rail, I do not think the Government agreed to put in restrictive practices in the letters patent.

(Page 13367 follows)

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THE COMMISSIONER: It would take some rights from them?

A. Yes.

Q. By letters patent the applicants got rights, and if you say, "Yes, I will give you certain rights, subject to certain restrictions", there can be no complaint by any legal association, is that right?

A. That is right.

Q. What you say is that where arbitrary powers were given there was no appeal which could take away these rights?

A. May I say this, sir. That was one point Dr. Phillips complained about when he asked for a decision under this section and actually there wasn't any right of appeal. I notice Mr. T.S. Hoskins had something to say about it.

Q. I can quite understand that is one of the things he would ride on.

MR. ESTEY: Q. I do not want to labour this, but there is a point and I would like to get this clear. What you really say is that when the Provincial Secretary cancels a charter there was no appeal from that?

A. I think that would be correct; that as a matter of fact was the background of the Gordon Commission.

Q. Regulation 23 hasn't a thing to

do with cancellation of a charter?

A. No.

Q. That is a restriction in letters patent?

A. Yes.

Q. But the sections of the Act was something that they might be concerned with?

A. You have to read them together.

Q. You can cancel a charter and there is no appeal?

A. That is right.

Q. There were a whole lot of instances where there was something like this?

A. Yes.

Q. But Section 23 hasn't much breadth?

A. I would say Regulation 23 sets out the conditions. There is this relevance, what you might call the clause at the end of that may very well mean that if the Provincial Secretary thinks that a pack of cards was gambling paraphernalia that could lead to cancellation of the charter and many lawyers thought that was important.

Q. Now, in regard to letters patent you have an absolute right?

A. That is right.

Q. It is purely a matter of your discretion?

A. Yes.

Q. It is quite different when you cancel a charter?

A. Yes.

Q. Now, the real complaint surrounding this, and I think you have made your comments about this, the real complaints about the use or abuse of these charters is what happened after the legitimate applicants got hold of a charter and then it was put in the hands of somebody else. Maybe two per cent of the people won't get it for illegal purposes, but your real problem is to control it after it is issued?

A. That is right, that is what Section 23 means.

Q. Your government devoted considerable time and energy to the use or misuse of these charters and you introduced Section 291 which said you will not move head offices of the club without our permission?

A. That is right.

Q. And you had to put that in to make it restrictive?

A. Yes.

Q. I suppose a lot of the difficulty would have been avoided had it been put in the Code in 1954?

A. I suppose so. Your hindsight is really better than your foresight.

Q. That is why lawyers have so much to say. They always come in after. Somebody thought it important to put this in and you put it in the Act?

A. If you did this and some ingenious fellow down on Bay Street and looks it over and says, here is an old charter and this is outside of the scope of that regulation, you would have difficulty.

Q. As a matter of fact, we have it now with old racing charters?

A. That is correct.

Q. And it is raising by exhumation seven old charters.

THE COMMISSIONER: We have enough to do without getting into that.

A. I may say this, I think the difficulties in that respect are over because there hasn't been a new charter granted for fifty years and that goes back to the Rainey days.

Q. Do you mean Rainey or rainy?

A. He was a very fine gentleman but he had very pronounced views.

THE COMMISSIONER: Now, let us not waste time talking about racing charters.

THE WITNESS: I will talk to you private ly

about that.

MR. MSTRY: Q. I suppose your remarks about the difficulties one gets into in the other Regulations is proven by the Chinese Club because one of your Cabinet Members said very unkindly, "Our laws are not well written".

A. That was Mackinnon Phillips.

Q. I can agree with him.

A. I wouldn't hold that against him.

Q. When did you first become aware of the fact that the two Chinese charters were in existence?

A. When I got that fourteen pound brief that Mr. Yaremko presented to this Commission. That would be some time within the last six months. As a matter of fact, I had never heard of them before and, as a matter of fact, I wondered about the validity of it when I saw it, but now counsel have told me there is nothing wrong with it. It was arbitrarily taken out and could arbitrarily be put in again.

(Page 13375 follows)

Q. You apparently disagreeing ---

A. I disagree with it having been done, of course.

Q. You disagree with it?

A. Oh, yes.

Q. And the fact it was done without application from the club or application for supplementary Letters Patent that were obviously required?

A. You have got to remember this. The doctor, I suppose, felt very strongly about this. He went and looked at these places and all the rest of it. He felt that provision that was in there was wrongful, and when it was used to chase a lot of poor, little Chinamen around who were playing fan-tan among themselves, that it should be out. Now, I suppose that is what he felt. Therefore he asserted his authority and took it out.

Now, he may have thought that I agreed with it, but I can assure you, sir, that I did not agree with anything of the sort.

Q. Well, you have been very frank and it is very clear and I have no more questions. I just want to congratulate you that in all my reading I found no evidence of any gambling club in Lindsay.

A. That is very nice.

MR. LAWLOR: One question, Mr. Frost.

THE COMMISSIONER: I'll hold you to that.

MR.LAWLOR: That will be the first time you held them, Mr. Commissioner. We all said we were going to ask one but they kind of lead on.

EXAMINATION BY MR. LAWLOR

Q. In the evidence of Friday, October 12th, apparently a letter in connection with the Chan Social Club was directed from the Minister at that time to you, Mr. Frost, as Premier, and the letter set forth re the Chan Social Club in detail running on pages 12656 ------

A. Is that the letter of 31st July?

MR. WILSON: The letter I read.

THE WITNESS: Yes.

MR. LAWLOR: Q. It is in connection with this. This is a Chinese club, how their Letters Patent were given in 1956 and it was limited to 180 Dundas Street and they applied for supplementary Letters Patent to change the name to the Fook Lee Social Club and to change their operation to 124 Dundas Street, and there were police objections in both instances. He recites all this in a letter to you going down quite a few pages.

The police objections were fairly profound and they were not those incidental things. They found a charge of membership fee and ten cents an hour being charged advisedly which is against, as you know, the charter. Then he mentions the solicitor for the club, and at the end of the letter he says:-

"I am bringing this matter to
"your attention for your advice as
"to whether or not the charter
"should be cancelled and as to
"whether or not Supplementary
"Letters Patent should be issued."

Mr. Estey asked: "Is there any reply to that letter?" and the Commissioner then asked:-

"Why was the Minister asking the
"Premier about it?"

and then the answer is:-

"I couldn't say, my lord"

That is, Mr. Cudney, and then he goes on:-

"There seems to be no reply. There
"is nothing on file"

Do you recall that at all?

THE COMMISSIONER: He swore he has no recollection of the letter.

THE WITNESS: No.

THE COMMISSIONER: He has said that unequivocally.

MR. LAWLOR: He did, eh?

THE COMMISSIONER: Oh, yes.

MR. LAWLOR: Well, I guess that ends that. No further questions.

THE WITNESS: Sir, there is just one other point, and I read this in the press, that Mayor Miller of Niagara Falls had referred to some club over in Niagara Falls, some Italian club ---

MR. ESTEY: Niagara Frontier Club.

THE WITNESS: I would say it is about the Niagara Frontier Club, but I never intervened on their behalf directly or ~~XXXXXXXXXXXX~~ indirectly in connection with any charter or supplementary letters patent or liquor licence, none whatever. I didn't do anything of the sort.

Now, I may say this, sir. It is very probable that Mayor Miller, who is the Mayor of Niagara Falls and a very fine citizen of that community, it may have been that he mentioned that to me at one time, I don't know, but I would say this, sir, that you would find this if you were premier of a province. Every body comes to you about, whether it is an old age pension or whether it is a charter or whether it is something of the sort, or whether it is a liquor licence. Now, I always made this provision. I always said to them,

"Well now, you look to have a very good case. You had better go to the board, or to the commission, or to the department, and make application" and see it go through the wringer. I didn't tell them that, but that is what would be the course.

Now, I think you would agree that that would be the right thing. It wouldn't be anything to me. I would be arguing all the time with people if I said, "I don't think you have a good case, but you have got a poor case" or something of the sort. Far better to listen to them and say, "Well, now, all you do is just run downand make application add you will be asked certain things. If your case is as good as you say it is, no doubt you will get your licence". That is all I said, sir, and I think it is the best answer that I could give.

THE COMMISSIONER: Well, thankyou.

A. Thank you very much, sir.

MR. WILSON: Mr. Yaremko.

THE COMMISSIONER: I have a dental appointment in three-quarters of an hour.

MR. ESTEY: We are going to be some time with this witness. I don't see any merit in starting with this witness.

THE COMMISSIONER: Perhaps it might

be advisable to call it a day now. What do you gentlemen suggest?

MR. KEITH: I suggest that would be a good idea, because we will be a while, not too long but longer than an hour with this gentleman, and we may as well be finished at one time as divide it in half.

THE COMMISSIONER: Then to-morrow you have an engagement?

MR. WILSON: I would certainly like to have to-morrow to attend a certain meeting.

THE COMMISSIONER: At Osgoode Hall.

MR. WILSON: At Osgoode Hall. I think we could go on on Monday, if it meets with your approval, and then follow it with the summation after that of counsel, of course in camera.

THE COMMISSIONER: That is what we will do.

----------Whereupon the hearing adjourned at 4.00 p.m. until 10.00 a.m. on Monday, October 21st, 1952.

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VOLUME NO. 67

ROYAL COMMISSION

ON CRIME

IN ONTARIO

DAILY TRANSCRIPT
OF PROCEEDINGS

Date. Monday Oct. 22/62.

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MONDAY, OCTOBER 22, 1962

---On resuming at 10:25 o'clock a.m.

THE COMMISSIONER: Mr. Brewin.

MR. BREWIN: Yes, Mr.Commissioner. There are one or two matters with regard to the conduct of these proceedings which I wish to discuss with you. The first, with respect to evidence on phase 3, and, I understand, that it is proposed by you, sir, to hear the evidence of certain police commissioners on the extent of organized crime in Ontario in camera, and my submissions with respect to that are that such parts of the evidence given that are not confidential should, after the hearing, be released to the public, or made available to the public and counsel before this Commission. Dealing with that, sir, it is my submission, I fully understand that some of this evidence may deal with confidential information, methods used by the police and so on in the detection of crime which would be very wrong to make available to the public, and certainly that element of the public which is interested in not defending the law. I appreciate that so I am not objecting to the hearings of the senior police officials on that phase of the matter being in private, but I do say, sir, that in all probability some of the evidence

so given will be such as should be revealed to the public on what is, after all, a public inquiry, as part of the purpose of the inquiry is public education, and if the public is to deal with your report, any recommendations arising out of it, and to know the seriousness of the matters with which we are dealing, it seems to me the views of the people on this, as not in the field ofconfidence, should be in evidence for the public. That is my first submission and I don't think I should do more on that score.

My second submission has to do with regard tosubmissions to you. It is my understanding you have indicated a view that the submissions should be made in camera or privately by counsel representing this Commission and once again my respectful submission is those submissions should be made to the public on a public inquiry, or made available to the public, so that the public can know the parts are discharged by the people who have tried to assist you in this matter, and know the recommendations that are made and conclusions drawn. I appreciate people like myself and Mr. Estey who represent political parties may make representations out of case in this inquiry but I know, it goes for myself and Mr. Estey and Mr. Lepler, that our submissions will seek

to avoid any political tone and seek to be as helpful and factual as they can be to you. We trind to conduct curselves in that way and intend to do so. Perhaps if somebody asked me what conclusions or recommendations I would make, I am not against informing any section of the public what are the certain submissions and views that, as a result of being counsel on this Commission, I have come to, and I think that not only an experienced persons like you may survey the evidence and report on it, but the public may be informed with regard to the matters being inquired into, and the very nature of the Act requires that as little should be done behind closed doors as is possible, in my respectful submission, and in my respectful submission I feel anything approaching secrecy with regard to submissionn, the good would far outweigh any evil from -- that some of us may consciously or unconsciously transgress and say what is unhelpful to you. That is my submission in that matter and it is a matter for you to decide how these proceedings should be conducted, but I would like a very direct statement before I took part and submitted submissions to you, sir, whether or not anything I submit was to be regarded as secret and confidential; whether we make it in private or public, sir, something which is not to be made

A/2

available to others.

I think Mr. MacKinnon has written you with regard to the date of the submissions and I only want to say with him that I would find it extremely difficult to collect what I regard as relevant submissions from the 60-odd volumes of evidence we have in a short time. I don't want to delay the matter but ask that we be given a litte longer to appear on our submissions.

The last part has to do with regard to a letter sent you September 17th in which I asked for the recall or -- my letter says "Chief Justice McGill" which is obviously an error -- he is promoted far beyond his means -- Chief Constable McGill, with regard to an entry in Sergeant Anderson's diary, the 19th January, 1962. You know the content of that entry.

THE COMMISSIONER: Yes.

MR. BREWIN: It is directly relevant to the matters being inquired into. It is true it is contradicted by evidence given earlier in this hearing, but on searching into the facts the contradictions are not too surprising in this sort of a matter. My submission, both to McGill and those he referred to in this entry should be recalled to get atthe bottom of this matter, which, if true that these things

were said, is extremely relevant to this inquiry, and I ask that Chief McGill be recalled to be examined on this matter before this hearing is closed.

THE COMMISSIONER: I have heard your submissions. I will take that under consideration. Are you ready to begin your cross-examination?

MR. ESTEY: The point Mr. Brewin has raised, the matter has been discussed before you and the rest of counsel, and I want to say again, this should be said for the record, that what Mr. Brewin has said is correct as it applies to the part of the hearing I was involved in, Part No.1, and when it comes to applying the principle, we are in the hands of the Commissioner whether anything is done in private or public. The role of counsel in argument is to summarize the arguments in such a way the points counsel wish to make to be of some assistance to the Commissioner. Mr. MacKinnon has indicated he is in your lordship's hands on points 2 and 3 how the argument shall be made. I am in the same position. I think, in summary, if possible we would favour having the argument made public and if you want to proceed for reasons already outlined to you, we will say no more about the proceedings in private.

THE COMMISSIONER: When we are through with the cross-examination I will rule on all these matters.

MR. BREMIN: I hope you think it not disrespectful if I am not here. Mr. Lawlor will continue if I am not available.

MR. WILSON: I will call Mr. Varenko.

JOHN YAREMKO, recalled

EXAMINED BY MR. ENTRY:

Q. You have been Provincial Secretary I believe since May, 1960?

A. 26th May, 1960.

Q. And it is a relatively short time, but you may have a different view on that and I will, so far as possible, try and confine my questions to matters arising during your tenure of office on matters of policy not confined to any particular period and, in my examination I will try to bear in mind your learned Deputy has gone before and gave facts which you would otherwise have to give.

What does your Department do when you receive a notice on your file on the club in question that the charter has been sold?

A. I don't think that we have ever received a report which has been limited to that blunt statement. Invariably, the Deputy Minister brings to my attention a report which he has received by and large from a police department, and the report is gone over by myself and then discussed with him. And then I reach the conclusion as to what action should be taken in that regard.

Q. Now, before we proceed further, I think you will recall, as you were here, that

you do have one file in your cabinets where the bald statement is made that this charter has been sold, dated 8th of April, 1958. It bears a receipt of the Provincial Secretary, 8th of April, 1958, and it is signed by the club in question.

What does your Department do?

A. You have not told me the name of the club.

Q. Queen City Chess and Bridge Club.

A. In that instance, there was a direction given by myself to institute proceedings for cancellation.

Q. That was, of course, some time afterwards. What was the ground for cancellation?

A. Failure to make --- I believe -- May I have the file? I think I should have the file to make an accurate answer.

Q. By all means. The number on the file, it is No. 018568.

A. On the 15th of May, 1961, the Deputy Minister wrote to Queen City Chess and Bridge Club:

" Under the provisions of
"Section 4 of The Corporations
"Information Act it is hereby
"required that your corporation
"on or before the 25th day of May,
"1961, make a return to this office

"containing all books of your
"corporation since incorporation
"to date, including minute books,
"membership registrations and
"books and records of account."
And then on the ---
Q. That was read into the record, and June the 1st ---
A. June the 1st, the letter was written to them -- A letter under date of May the 15th:
" By letter under date of May
"the 15th the above corporation was
"required under Section 4 of The
"Corporations Information Act on
"or before the 25th day of May, 1961,
"to make a return tothis office
"containing all the books of the
"corporation since incorporation
"to date.
" To date this return has not
"been made and, accordingly, I would
"advise that, unless cause is shown
"to the contrary why the charter of
"the above corporation should not be
"cancelled, an order will be made on
"or after June the 14th, 1961,
"cancelling the letters patent of
"the above corporation for cause."
No reply was received and we cancelled.

Q. June the 16th you ordered it cancelled. That is based on a subsequent failure to file returns?

A. No, it was not. It was based on the fact that they did not make a special return.

Q. Corporations Informations Act, Section 4. The file does not have a note that the charter was sold in 1958? Ultimate cancellation had no bearing on that at all. What in the Act lets you do anything in accordance with that memorandum that I referred to?

A. If there was an improper transfer of the letters patent, if there was no relation between the club which at one time operated under the provisions of the charter, and, subsequently some other club purported to operate without what is ordinarily termed the ordinary process of change, where there is a change in membership and a change in executive, the Department would find that as sufficient cause for cancellation, and the purpose of the special return was to determine the facts of the situation to determine whether there was any validity to this blunt statement as to the charter having been sold.

Q. That, of course, is two years after the event, but what section of the Act do you refer to when you say you have any power

to do anything about that statement?

A. Section 326 where there is sufficient cause.

Q. Now in all your ---

THE COMMISSIONER: 326?

A. 326 of The Corporations Act.

Q. That is the general cancellation statement?

A. What report are you talking about? The 1958 report. May I have that?

(Page 13393 follows)

B/GRS/1

Q. It is the one dated April the 5th, 1953, that we are talking about throughout this line of questions, Mr. Yaremko. It is a very short two-sentence memorandum from the club which says this charter has been cancelled, and for further information contact Mr. Carl Keyfetz, and give his address.

A. Oh, I thought you were referring to a police report.

Q. Oh, no.

THE COMMISSIONER: Excuse me a moment.

MR. ESTEY: And you have referred in your answer to Section 326, which says:

"Where sufficient cause is shown, . . . " -- and I take it from your answer that the discretion granted in the cancellation is sufficient in your opinion to cancel any clubs, I suggest, if the facts turn out that the charter was improperly transferred?

A. Yes, that is my opinion.

Q. In all of your cancellations which you have plotted and charted in your brief have you cancelled any because the charter has been sold?

A. I don't recall ---

THE COMMISSIONER: Well ---

A. --- any such finding.

Q. As a matter of fact, it has not?

THE COMMISSIONER: There is no doubt about that?

A. No, I don't recall any. We have -- we try to pinpoint -- at least, I have tried to pinpoint a specific cause which is very readily identifiable as a fact. For example, a conviction, forfeiture of powers. Those are matters of finding which are fairly readily established. To determine the ordinary process of it, of a change of club, would be somewhat difficult to establish the facts, but if there is -- if there were such an instance, and the facts proved, that would be one of the causes.

MR. ESTEY: Now, Mr. ---

THE COMMISSIONER: Well, it wasn't one of the causes in the case of the Queen City Chess and Bridge Club?

A. No, because we asked for a special -- we asked for a special return to determine certain things, and they didn't make the return, so we made the -- we made the cause failure to make the -- the failure to make the return.

MR. ESTEY: I notice -- do you have a copy of your brief in front of you, Mr. Yaremko? At the bottom of page 48 you deal with this general question. You say:

"As has been related supra the

"Department had received no complaint or "report that any such trafficking was of "concern until the end of December, "1959, when there was a story in the "press to that effect."

A. You are reading where, Mr. Estey?

Q. The bottom of page 48, the last paragraph of that page, on the right hand side.

A. Yes.

Q. You see that?

A. Yes, I do.

Q. "Immediately thereafter, the Deputy "Minister had an interview with the "Chief of the Metropolitan Toronto "Police who brought this problem to "the attention of the Deputy Minister."

Now, we have seen a considerable number of files where there have been reports of transfers of charters, and of course the latest illustration in your mind is no doubt the Queen City Chess and Bridge Club? Isn't that correct?

A. I think that is correct.

Q. And then at the top of page 49 it continues:

"As has been related supra, following this interview, the Honourable "Mackinnon Phillips did two things

"Immediately: (1) In order to prevent
"any trafficking in such letters patent,
"on February 5th, 1961, he introduced
"legislation providing no social
"club, whenever incorporated, could
"change the location of its premises
"from one address to another without
"the prior consent of the Provincial
"Secretary. (2) In order to catch
"any trafficking in process he
"extended the grounds of cancellation
"for cause to the case where a club
"had lost its corporate powers for
"non-user many years ago and
"thereafter had purported to operate
"after such powers had been
"forfeited."

Now, let's deal with No. 1. The amendment to the Act, which is now 291, I believe came in in 1961, is that correct?

A. April of 1960. It was introduced in the House in February of 1960, and became law on April 10th, 1960, I believe.

Q. Yes. What is the reference to February 5th, 1961?

A. He introduced the legislation in the House. That is the Session, the Legislative Session of 1960. That is an error. That 1961 should be 1960.

Q. Oh, I see. All right.

A. It is a typographical error.

Q. Well, now, that of course made the provision retroactive to cover the clubs which then existed up to this time?

A. The effect -- the effect of it was to make it retroactive.

Q. Yes. And that, I think, is 291 now, no corporation shall, and I am paraphrasing, no corporation shall change the location of any of its premises without the prior consent in writing of the Provincial Secretary. Now, at that immediate time your Department had no record of the address of any charter whose letters patent were issued prior to about 1949, isn't that correct?

THE COMMISSIONER: Repeat that, please.

MR. ESTEY: At the time of the passage of this section, now 291, the Department had no record of the premises of any club incorporated prior to 1949?

A. We may have had the -- we may have had the record, the address of the premises, but there was no statutory provision under the Corporations Information Act, or any other Act to my knowledge, requiring such information to be filed with the Department .

Q. That is correct, so that in respect of those old clubs you knew their head office?

A. Yes.

Q. Because that is in the return, or in the report?

A. That is correct.

Q. But you didn't know the premises. Now, that being so, this effect of Section 291 in 1960 and in 1961 was either negligible or nore at all, because you didn't know any status from which they could not move, is that correct?

A. I think it was very effective, because if subsequent events, if the police brought to our attention that on such and such a date the club had occupied certain premises, and subsequently had moved, that was a matter which the police could investigate and bring to our attention. Then we would -- we would have taken action, I believe. It is my opinion that that section was extremely effective.

Q. Well, I am not saying that to-day it is not effective, but I am just trying to direct your mind to what immediate impact would the section have when the Department had no absolute data on the locations of these older charters at the time it was introduced. I think you have agreed to

that?

A. No, but it froze every club locally at that spot the club were occupying.

Q. Yes, and then afterwards it would be an easy matter to obtain the data by changing the regulations under the Corporations Information Act to add a line to the annual return form forcing the clubs to reveal their address, isn't that right?

A. Yes, that has been done.

Q. And you let them know they would have to do that?

B/2 A. That was done. As of the end of August of 1961 ---

Q. Yes?

A. I issued instructions to the Deputy Minister to ---

Q. Promulgate that regulation?

A. No, that we would be taking steps to introduce that regulation in the following return. You see, the ---

Q. Well, I am going to come to that, but I would like to deal with the regulation. Some time in the summer of 1961, I don't care for the moment just when, you did cause a regulation to be passed which required clubs, new and old, to show where they were in 1960?

A. Yes. We amended the filing

regulations under the Corporations Information Act.

Q. And my summary of it is correct, isn't it?

A. Yes.

Q. And that of course would affect the next set of annual returns which would come in effective March 31st, 1962?

A. Yes.

Q. Is that right? And they had to be filed before the 30th of June, 1962?

A. Before the 1st of June, 1962.

Q. The 1st of June, excuse me, you are right. So that the effect of that is that while the statute was amended in early 1960, February or March some time thereabouts, 1960, that it didn't really become operative against these older clubs until some time in June, 1962?

A. It became operative immediately on April the 10th, 1960, the statutory provision.

Q. In 1960?

A. Yes. The statutory provision became operative on April 10th, 1960. The reason for the amendment by the Department subsequently is that I came to the conclusion early -- some time early in 1961, through discussions with the Deputy Minister, that

apart from relying on the -- on the police to make reports as to any changes which in fact took place, that we could -- we could very simply by amending the form require that, and if you will see that the dates of occupancy as of the date preceding April 10th, 1960, and the present form, a clerk in the office could by examinigg it come to the immediate conclusion that a change of premises had taken place, and it would be brought to the attention of the Deputy Minister, who would cause an investigation to see whether permission had been obtained for that change.

Q. I am wondering, Mr. Yaremko, as a result of all these questions, why those two steps, which are interlocked, were not taken together?

A. I don't -- at the time, in April -- in February of 1960, I doubt whether anybody believed them to be interlocked. The idea was to freeze -- I was a member of the Legislature at that time, was to freeze -- freeze the clubs in the premises it occupied, and as a matter of fact the regulation has come to be very helpful. I believe the -- I think that the -- I think that the statutory provision is the part that is effective.

Q. Well, that is of course the

bedrock, the other is -- creates the evidence which makes it easy to enforce the statutory regulation, isn't that right?

A. Hm-hmm.

Q. In any event -- well, all right.

A. Incidentally, a lot of -- a lot of what I believe are bona fide social clubs are perhaps unaware of that provision, although ignorance of the law is no excuse, there may be instances where corporations have moved without getting -- without consent, and I think over the next two years we are going to have -- the records officer is going to have perhaps an extra duty on his hands, without extra pay, sorting out all these clubs which have been unaware of the passage of the -- of the statute in April, 1960.

Q. Now, let's get on to the second clause at the top of page 49 which I have read where the then Provincial Secretary extended the grounds for cancellation in order to catch trafficking by cancelling for non-user clause. Now, under the old Companies Act which expired in 1953, I believe Section 27 made forfeiture automatic, isn't that correct?

A. Non-user for two years made forfeiture automatic.

Q. Automatic, but under the

Corporations Act of 1954, and it is still the way in the law, forfeiture occurs on two years, plus notice? The Department must give notice?

A. Yes.

Q. So that the grounds which the then Provincial Secretary said would be used for forfeiture of charter really only applied for the years prior to 1954, isn't that right?

MR. WILSON: You said two years. I think it is three years, isn't it?

MR. ESTEY: Oh, I am sorry.

MR. WILSON: 326.

MR. ESTEY: 325.

MR. WILSON: 326 too.

THE WITNESS: Would you repeat that question, Mr. Estey?

MR. WILSON: I just wanted to clear up whether it is two years or three.

THE COMMISSIONER: Well, I have got big ears. We all heard it is three.

MR. WILSON: I think it is three. 326, down at the bottom of the page.

MR. ESTEY: No, I know. That is not my question. The one I want -- this might get very confusing if we try and do two things at a time. Let's stay with forfeiture. There is no question, is there, Mr. Yaremko,

that under the old Act, before the 1954 Act, forfeiture on two years non-user was automatic, no notice required?

A. Yes, that is right.

Q. But in your 1954 Act, the subsequent statute, Section 325 to-day says that on two consecutive years did not use its corporate powers, the Lieutenant-Governor may declare such powers forfeited. Do you see that?

A. Yes.

Q. So that you have a parallel to the old Section 27 in the new Act, except the new Act says the Department must take the initiative, and therefore I am putting it to you, and I think you will agree, that the effect of Dr. Phillips' expansion of the grounds for cancellation really is that it applied to those companies which were not using their corporate powers prior to 1953, or 1953 and prior? That is surely correct, isn't it, Mr. Yaremko?

A. Now, just a moment, because there is nothing to prevent the Department from -- if a matter involving a state of trafficking is brought to the attention of the Provincial Secretary's office atthe present time and this -- and the corporation involved had not used its powers for two years, two years post -- post-1954, the

Provincial Secretary is, through the Lieutenant-Governor is empowered to declare the corporate powers forfeited, and a corporation without corporate powers cannot do very much.

Q. But you do that if he gives notice?

A. Yes.

Q. I am not talking about that, I am talking about the cancellation of charter for failure to exercise their powers. The prohibited period under the old Act you merely cancel. You have seen fifteen or twenty cases?

A. Yes, I have.

Q. Yes. So the effect of the new Act is limiting that extension to the old charters?

A. Yes, which you can see were causing the trouble.

Q. Now, why is it -- why is it, Mr. Yaremko, when faced with this continuing problem which we see, and which Mr. Roberts described as being a serious problem, why is it that the old Section 27 is not in the present Act?

A. Well, at that time -- if a year from now you asked me why the legislation passed by the House was not in effect to-day, I would say that it was not considered at

the time.

Q. But you had been using the old Section 27 day in and day out in your Department, right?

A. That is right.

Q. But it is not in the present Act, isn't that right?

A. I don't -- I don't understand your question, it is not in the present Act.

Q. You don't have any powers in the present Act that you can make conciliations like you used to have in the old Act, isn't that right?

A. No, there isn't. There was a recommendation by the Select Committee of the Legislature who constituted the old Companies Act, and came to the conclusion that such an amendment should be made.

Q. That was in the '53-4 period?

A. Yes.

Q. And it has not been considered in your time that it should be reinstated?

A. That is correct. It has not been considered. No problem has arisen. No problem to my mind had arisen which necessitated discussion on that line.

Q. And yet we have seen, for example look at the Parthenon Club , we have had evidence of that place, and the Department took

action because of the old forfeiture under the old Act. It is a very convenient, quick way to cancel a charter, isn't it?

A. The forfeiture took place prior to 1954.

Q. Yes.

A. We have no evidence that there was -- that at least the forfeiture, rather, I am meaning questionable evidence. I haven't made a finding yet, Mr. Estey. We allege -- we think there is going to be a hearing at some date when we will allege that there was a forfeiture of powers during some period prior to 1954.

Q. Without asking you to improperly forecast, it is your opinion there are many for cause gone through, in any event, and on that, on a finding, properly finding cause, there has been forfeiture, automatic forfeiture?

A. Well, we have -- we didn't find it automatically. We found it as a fact that there had been a forfeiture, and that constituted sufficient cause, therefore cancellation ensued.

Q. Well, let's take the Preston Amateur Athletic Club of Ottawa. Do you remember that was a clear-cut cold case of somebody filing returns with a five-year-old

vice-president, a four-year-old secretary-treasurer, and partner, with records being found in the premises, a very lengthy report from the police, and in that case there was forfeiture of the charter because the old Act said you could -- and there was automatic cancellation, isn't that a case in point?

A. Well, I recall that, and -- yes. The cause was it was -- it would appear that the above corporation did not for two consecutive years prior to 1954 use its corporate powers, and that therefore its corporate powers were forfeited under Section 27 of the Companies Act. A hearing was held, evidence was taken, and ---

Q. All right. Well, then, that clearly is a good case where the Department had considerable evidence of other matters, but it was cancelled because of the power of the underlying forfeiture. Of course, it had been there for some time, hadn't it?

A. Prior?

Q. The non-use had occurred some time before?

A. Oh, yes, it did. It may have occurred at any time prior to 1954.

Q. Well, now, -- yes, and in that case it did?

A. Yes.

Q. There were other instances down through the years, and that is the file where the president decided that he would rectify it in a practical sense, and he went and saw Mr. Dunbar, and then he filed seventeen or eighteen returns, you remember. Well, now, I would like you to return, and Mr. McCormack may be good enough to put before you the file of the Somerset Club.

MR. McCORMACK: You have it, Mr. Eatey.

THE WITNESS: I may say, my lord, that to my knowledge there has not been brought to my attention any -- any of this type of trafficking where there would appear to have been a loss of -- at least, a loss of corporate powers in the past four years. I am can't recall any such instance.

(Page 13418 follows)

C/1/PAL

MR. ESTEY: Q. My point in indicating that, which I will come back to, Mr. Yaremko, that illustration of the Preston Club, where the charters were cancelled for a rather technical and dry reason in the face of a rather bizarre circumstance depicted in the police report, is somewhat analogous to income tax convictions of American criminals when they could not convict them on the main crime.

A. Cancellation for one cause is just as effective as any other.

Q. It electrocutes the company?

A. Yes.

Q. That is why I am asking the questions.

Let us look at the Somerset file, Mr. Yaremko. The first police report - I do not propose to go through the C file.

This is a corporation, Mr. Commissioner, which started in January, 1936, and is limited to the County of York and the powers of the usual social club at that time.

Q. The first police report --

THE COMMISSIONER: Is this one you reviewed earlier?

MR. ESTEY: No, it is not. I am not going to cover any old ground.

Page 77 of the brief.

A. I may say, my lord, this is an instance where, apart -- that this is a matter which is presently before me as Provincial Secretary.

Q. The first police report you will find bears a date of 18th July, 1960, and it reached your Department, as near as I can tell, with a covering letter dated the 22nd of July, 1960. This was a police report on an application for supplementary letters patent to transfer from Bathurst Street to 805 Wilson Avenue. Do you see that?

A. Yes, I have that report, Mr. Estey.

Q. Then, in the fifth or sixth paragraph on page 1 it appears the main purpose of the proposed move is to hinder the police in obtaining the evidence of suspected and alleged gambling activities.

THE COMMISSIONER: What is the date of the report?

MR. ESTEY: 18th July, 1960.

Q. The report is made by whom?

A. Acting Inspector Priestley to Chief Mackey, and Chief Mackey included the report in a letter in which Chief Mackey concludes his letter by saying:

". . . I strongly oppose the granting "of the desired permission and at the "same time strongly recommend that the

"Charter held by this social club
"be cancelled."

Q. Then, page 2, just going briefly through the first report and, then, the second. Page 2, Mr. Yaremko?

A. Just before that, the next two paragraphs, say, Mr. Estey:

" Many Orders for Search,
"both gaming house and betting
"house, have been executed on
"these premises over the past
"eighteen months but without
"obtaining sufficient evidence to
"justify charging the Club and the
"members thereof before the Courts."

Q. Let us pause there. I take it it is still your policy you may cancel a charter when there is evidence of gambling but insufficient to warrant the laying of a charge?

A. Yes.

Q. The next paragraph you were going to read:

" It does appear, however, that
"the Club premises are used as a
"meeting place for professional
"gamblers and their associates.
"This statement is borne out by an
"examination of the records of the
"persons found on the Club premises

"during visits by the police in
"the first three weeks of June,
"1960."

At the top of page 2, Mr. Yaremko, you will notice:

"Eleven of these individuals are
"shown on the records of the
"Metropolitan Toronto Police."

A. Which paragraph are you reading?

Q. The top of page 2, the first paragraph. Would you read to the Commissioner the second paragraph at the top of page 2 and the third paragraph?

THE COMMISSIONER: Well, you read it.

MR. ESTEY: "With one exception, the
"foregoing data indicates a proclivity
"for gambling or betting on the part
"of those named and substantiates
"the previous submission that the
"Somerset Club is a rendezvous for
"members of the gambling fraternity.
" It is submitted, that if
"permission is granted to the Somerset
"Club to change their location to
"the proposed site at 805 Wilson
"Avenue, it will be of the utmost
"disservice to this Department in
"its efforts to combat illegal
"gambling and betting. It is therefore

"recommended that the Deputy
"Provincial Secretary be urged
"not to grant this permission.
" It is also recommended
"that consideration be given to
"petitioning the Honourable
"Provincial Secretary to cancel
"the charter of the Somerset Club
"for the reasons stated above."

Q. That is in the July, 1960, report, Mr. Yaremko?

A. Yes. That is a copy of the report of Inspector Lewis.

Q. Then, the report goes on in great length to give the statements of people on the premises. I direct your attention --

A. I wonder perhaps, Mr. Commissioner, -- I do not know -- We are subject here to direction. Perhaps the whole of the report, which is ten pages, should be filed as an exhibit rather than reading it.

THE COMMISSIONER: That will be helpful. We will have a copy stricken off and entered as an exhibit.

MR. ESTEY: Yes, that would be the best way to do it. We have a copy which is already filed by the police but it is not an exhibit.

THE COMMISSIONER: Well, we will have my secretary run off copies.

MR. ROTHY: Q. In order to shorten the time to complete this examination, Mr. Yaremko: Suffice it to say, this report, then, at the bottom of page 2, then, deals with the interviews which the officer conducted with the original applicants of the charter to show there had been something improper about the way in which they obtained this charter, and I direct your attention to the foot of page 2 where there is an interview with Mr. Thomas Ince Anderson. Do you see that?

A. Yes.

Q. The last line on the page says:

" 'I was approached by a lawyer "who had an office in the same building, "and whose name I cannot remember. "This lawyer asked me if I would let "my name be used as an applicant "for the Somerset Club charter. I "did this in the hope that this "lawyer would return the favour and "direct some insurance business to "me. After the charter was "obtained, I was made an honourary "member, and I remember that the "club had its location somewhere "on Queen St.W., in the vicinity "of Bay St. I was in the club rooms "twice and on both occasions gambling

"was being conducted, so I never
"went back.'"

THE COMMISSIONER: Who is that man speaking?

MR. ESTEY: That man is Thomas Ince Anderson. He is listed as an original applicant for the charter.

Then, in the middle of page 3 Mr. Harry Caesar was interviewed. In part he said:

"'I have never been a member of
"the Somerset Club nor have I
"ever allowed my name to be used
"in any connection with this club.
"There were no other Caesar
"families living at -- '"
the address which shows in the application --
"'or at any time to my knowledge.'"

Then, Mr. Bernard Roman is interviewed to the same effect, and so on.

The report, then, goes into a description of a great number of people who frequent the premises and sets out their records. I think that carries right through to page 8.

Then, on page 9 the officer summarizes and this, I think, is important, Mr. Yaremko. The summary of the foregoing pages says in part, and I am reading at the top of page 9:

" Although the Club returns
"have been filed in the correct

"manner each year, except for
"the 1947 annual returns which
"were filed on September 8,
"1948, after a warning from the
"Provincial Secretary's office,
"the following discrepancies come
"to light upon comparing the annual
"returns with statements made by
"a member and former members of
"the Club. These discrepancies
"are as follows:"

And he lists four. He deals with Mr. Anderson's report, which I have dealt with; Mr. Caesar's report; Mr. Roman's report and, finally, Mr. Henry Wortzman, No.4, in the middle of page 9.

"Mr. Henry Wortzman is listed as
"Secretary and Secretary-Treasurer
"from 1941 until 1950 inclusive.
"Mr. Wortzman states that he was
"only employed by the club from 1936
"until 1940 as the club Steward,
"and after that time he had no
"connection with the club. However,
"it is only after Mr. Wortzman left
"the club did his name appear as
"Secretary. Mr. Wortzman also
"states that if his name was used
"after 1940 it was without his

"permission and authority."

With that report on file, with apparent violations of the Corporations Information Act, perhaps also the Corporations Act, is that the policy of the Department, to hold an inquiry to see right then and there --

A. Let us see what happened. On July 25 there was a memorandum from Mr. Margolian, one of our solicitors in the Department, to Mr. Cudney. There is a procedure we follow in the Department, I am sure you will be interested in seeing this, and his report dated July 25, 1960, your lordship, is as follows:

" I have exmined the attached "file and the report of the "Metropolitan Toronto Police.

" While the police are strongly "opposed to the granting of permission "by this Department for the removal "of the club from its present premises "at 4140 Bathurst Street to 805 "Wilson Avenue, the following comments "are considered pertinent:

" 1. There is no evidence in this " report that the powers of " the corporation were forfeited " under Sec.27 of The Companies " Act.

" 2. While many orders for search
" have been executed against
" the club over the past eighteen
" months, no evidence has been
" obtained considered sufficient
" to charge the club and its
" members before the courts.
" 3. Inspections of the premises
" at 805, Wilson Avenue, have
" been made by the Building
" Commissioner, the Planning
" Director, the Fire Chief, and
" the Medical Officer of Health
" of North York Township, and
" none of these opposed the
" proposed move of the club to
" the new premises."

THE COMMISSIONER: Q. He had inspection by the Fire Chief, the medical officer of health, the building commissioner?

A. The medical officer and the planning director. They had inspected the proposed premises, 805.

Q. Wilson Avenue?

A. Yes.

MR. ESTEY: Q. Is that the end of the memorandum?

A. That is the end of the memorandum.

Perhaps your lordship would be interested:

On page 9 of the report, this is from the police report, it says:

"Investigation at the proposed "club premises reveals that the "location of this club on the "third floor of the building would "seriously impede police investigations "due to the fact that several flights "of stairs would have to be traversed."

The premises were, in their opinion, going to be much harder to police than the present.

THE COMMISSIONER: Q. And the fire chief and the planning -- building inspector, and so on, they would not be directing their thoughts to the facility that the police might have or would not have on a raid?

A. No, they would be directed to their own particular fields.

MR. ESTEY: Q. Is there any discussion in that memorandum, I think you have read it all, about this recommendation that the charter be cancelled?

A. No.

Q. The application before the house was to move the address, and that is dealt with; but, was there any discussion by Mr. Margolian of the strong recommendation of the police that it be cancelled?

A. Now, the next --

Q. Excuse me.

A. No, there is no recommendation on the file.

Q. No recommendation of what?

A. There is no recommendation respecting cancellation. There is no recommendation made by Mr. Margolian one way or the other in respect of anything.

Q. He does not deal with it one way or the other?

A. No, he brings out certain facts for the attention of the Deputy Minister.

Q. At that time you were on notice from the police that somebody had filed some false returns. Is that right?

A. The police in their report alleged certain things.

Q. That is not dealt with by Mr. Margolian but you were MM aware and are aware, of course, that there is an express offence created under The Corporations Information Act wherein not only is the corporation punishable but the man who makes the statement is punishable. Is it the policy of the Department to enforce that provision in circumstances such as these? This is back in 1960.

A. Up to now we are dealing with allegations of the police, Mr. Estey.

Q. That is right.

THE COMMISSIONER: Q. That is what he is directing attention to.

A. Mr. Cudney, by a letter of July 26 to Chief Mackay, stated as follows:

"I have your letter of July 22, "with attached report relative to the "above club.

"I would advise that in view of "your report the Provincial Secretary "will not give his consent to changing "the location of the club premises "from 4140 Bathurst Street to 805 "Wilson Avenue.

"We have also given consideration "to the cancellation of the charter of "his club, and to this end I have "required the club to produce all its "Books for our inspection."

MR. KNEY: Q. I am going to deal with that special return request. My original question, which I would like answered, is: At this stage of the game why does not the Department, as a matter of general policy and why did not it, as a matter of specific policy, invite the police to assist you in the enforcement of the two statutes which had been violated?

A. Mr. Cudney, apparently, was taking steps to check whether the police --

Q. The police report was correct?

A. Yes, whether the police report could be substantiated.

THE COMMISSIONER: Asking for some special returns would not advance that question very much. You have these men saying they never were -- one was induced to become a member -- What did the second man say?

MR. ESTEY: They had no authority to use his name, he denied he ever was a member, the second man; the third man, the same for him; and the fourth man said he was the steward but left and if they used his name in 1940 they did so without authority.

THE COMMISSIONER: Q. Getting special returns would not probe into the problems arising from what these men said?

A. That is true, but the books would indicate what had transpired within the club, so far as the books of the club were concerned.

Q. Naturally.

MR. ESTEY: Q. But, then, you would find more of the same, you would find Cassar, Roman and Wortzman on the records of the club and that would not answer the original police charge.

A. No, it wouldn't.

Q. What happened as a result of the requisition for special returns?

A. I imagine it was made and, then,

there is a report from Mr. Lavine to me dated the 8th day of February, 1961.

Q. That is some time later. Is there anything in between? This report was in July; Mr. Cudney's memorandum I think was in July. In the intervening seven months what happened?

A. There is nothing on file, Mr. Estey. I assume in the meantime, the request having gone forward, that the return was made and they were studied by the director of companies, who subsequently made the report to me. I assume that was taking place in the interval.

Q. Does the report which you are about to read deal with the special return?

A. Yes, it does.

Q. Would you be good enough to read that, please?

A. It is a memorandum dated the 8th of February, 1961, from Mr. Lavine to myself, and he is referring to the request to change the premises. He states:

". . . the City Police requested
"that the charter be cancelled.
" A copy of the City Police
"report dated July 18 is attached.
"In the report it is indicated
"that many orders for search were

"executed on the premises, but
"apparently there was no sufficient
"evidence obtained to justify a
"charge. The City Police based
"their request for cancellation
"on the grounds that the premises
"are apparently frequented by
"professional gamblers.
" Subsequent to the police
"report this Department obtained
"production of all the corporate
"records. These were produced
"and they related to matters
"commencing in January 1951.
" I have examined the records
"and there is nothing from those
"produced that would give this
"Department a basis for cancelling
"the charter on the basis that there
"had been a forfeiture of the
"corporate powers prior to 1954
"when the new Act came into force."

Q. That, of course, was never mentioned by the police, was it, Mr. Yaremko? There was no allegation of forfeiture?

A. No, there was not; but that would be a matter which I assume Mr. Lavine, having the report before him, would be considering; all aspects of the report. I would assume that

is what he would be doing. On the basis of his experience he would go into the matter to see whether there was some cause which may not have -- The minds of the police may not have been directed to and that is presumably why he included that paragraph.

Q. Then, I interrupted you.

A. "In these circumstances, I "would request your advice as to "what action, if any, should be "taken by the Department in this "case."

Q. Before we get to the next stage in the file, the police report -- the police recommendation, of course, was not based upon the frequenting of the premises by known gamblers. If you turn to page 9 of the police report, and, then, again to page 10, you will see this, after all we have talked about of the police returns, the officer says:

" It would appear from the "above statements that the annual "returns of the club in some instances "were falsely filed, and it is there-"fore not a bona-fide social club.

" From investigations conducted "since the year 1954, it has been "shown that this club has developed "into a large scale gambling

"organization, frequented by
"known criminals and gamblers."
And the final paragraph says, on page 10:
" In view of the foregoing,
"I strongly oppose the granting
"of permission for the Somerset
"Club to change their club premises
"from 4140 Bathurst Street to 805
"Wilson Avenue, and I also strongly
"recommend that representations be
"made to the Provincial Secretary's
"Department for the cancellation
"of the Charter held by this club."
That is the conclusion of the July, 1960, police report.
A. Yes.
Q. What happened?
A. That is a report -- There were two reports because the July 18 report by Mr. -- by Acting Inspector Priestley contains a report of Inspector Lewis who was in charge of that division. He also had that paragraph in which he said:
"It is also recommended that
"consideration be given to petitioning
"the Honourable Provincial Secretary
"to cancel the charter of the
"Somerset Club for the reasons
"stated above."

And he had stated certain reasons.

Q. Then, you received a report from Mr. Lavine on the 8th of February, 1961. I take it that report came to you from Mr. Lavine and not Mr. Cudney because Mr. Cudney was away?

A. Yes, I would assume that.

Q. What did you do with the memorandum, Mr. Yaremko?

A. I discussed -- I am speaking now, my lord, from recollection. I discussed the matter with Mr. Lavine,having read the reports, and this was the first instance to my recollection, I think, although I do not know where the Sun Sun -- whether the Sun Sun, if it is in this -- previous or subsequent to this. My own mind -- My own thinking had not been gelled as yet as to the action that I would take where there was -- where there was not a conviction but where there was an element of illegal gaming involved. It seemed to me that I had a recollection of Mr. Dunbar making a statement in the House at some time prior that the Provincial Secretary should not usurp the functions of a magistrate or a county court judge. I read the reports again and it seemed to me that if we were to hold a hearing there was a good chance that the evidence which would be produced would not

be sufficiently strong upon which the Provincial Secretary, myself, could make an order for cancellation. So, I called Chief Mackay up on the telephone, I think it was my first instance of having discussed directly any club matters, although I had cancelled a number prior to this, and I had a conversation with him in which I indicated to him that I believed that the report did not disclose sufficient things which could be proved at a hearing upon which I could make an order of cancellation and I suggested to him that, in view of the fact that they had been -- that the club had been refused premises and were on the same premises, to which apparently the police did not have too much difficulty gaining admission, that he should continue to visit the club from time to time -- or, have the proper officer visit from time to time to obtain, what I called, some more hooks -- I used this expression, some hooks upon which I could hang a hat of cancellation upon. I forget the length of the conversation but it took a considerable time, because we discussed not only this club but in general clubs and some of the problems that confronted the Provincial Secretary. He told me some of his problems. It was the first time we had a rather lengthy conversation and I indicated

C/4

to him, on the basis of the material I had, and having discussed it with the director of companies, I would not cancel it at that time.

I may say that very recently reports have come to the Department which have indicated a surveillance by Chief Mackay and his Force during a period since this time.

Q. As I understand you and as I see the file, there is no answer on the file to the memorandum but following that, on the 20th of February, twelve days later, Mr. Lavine sent back to the club the books and records they had submitted, and that is as far as the correspondence on the file seems to go. That letter is the 20th of February, 1961.

A. Yes.

Q. Then, Mr. Yaremko, I see there is a letter from the Metropolitan Toronto Police of the 12th July, 1962, submitting a detailed report by Inspector Thurston. That takes us down to this summer. Do you see that?

A. Yes, I have it before me.

Q. The report itself is dated the 11th of July, 1962.

That report, Mr. Commissioner, I would like filed as an exhibit as well. This is probably the most helpful police report on all these files because it weaves together these

activities by people and by clubs, it pulls them all into focus.

THE COMMISSIONER: Make the two reports one exhibit. Identify them as A and B.

THE WITNESS: My lord, may I just bring to your attention that this report of July the 11th may form the basis of action by the Provincial Secretary. This is -- This report is now before the Provincial Secretary for consideration as to action he may take.

MR. ENTEY: Now, Mr. Commissioner, this report is very enlighteningly detailed and I find it difficult to fairly excerpt from it and read; and, therefore, with the permission of the Commission I will read this report and save the witness reading it. It relates to a great number of the clubs we have been discussing. On the 11th of July, 1962, Inspector H.J. Thurston reported to Chief Mackey:

" With reference to the above "mentioned club, I respectfully "submit the following report which "is in addition to a report "previously submitted to the "Provincial Secretary, by this "Department, in July, 1960/"

That is the first report which I read this morning.

" First, I would like to draw

"attention to one, Harry Risen,
"1411 Eglinton Avenue West, who
"is mentioned in paragraph 2, page
"4 of the report submitted in July,
"1960. Harry Risen appeared,
"on the annual returns, as the
"secretary-treasurer of the Somerset
"Club for the years 1955 to 1958
"while it was located at 431 Spadina
"Avenue. He also appeared as
"secretary-treasurer of the Bellevue
"Club at 431 Spadina Avenue when
"it gained possession of these premises
"following the move of the Somerset
"Club to its present location at
"4140 Bathurst Street. At the
"present time, Harry Risen is facing
"trial on conspiracy charges concerning
"betting houses. He is one of six
"accused involved in the operation
"of several ex-chartered social
"clubs, namely: West End Bridge
"Club, Columbia Bridge and Social
"Club, Livian Club, and, of course,
"Bellevue Social Club whose charter
"is still valid.
" Since the adverse report was
"submitted to the Provincial
"Secretary in July, 1960, officers

"From the Morality Bureau and
"Number 17 Division have executed
"many Orders for Search on the
"premises of the Somerset Club.
"The following observations and
"investigations have been made and
"are, I believe, worthy of a great
"deal of attention:
" On Saturday, August 20th,
"1960, officers from the Morality
"Bureau executed an Order for Search
"on the Somerset Club, and immediately
"prior to entering, they overheard
"Sol Berenstein, club steward, giving
"out baseball scores over the telephone.
"This same Sol Berenstein was also
"a member of the Clarion Club and the
"Atlas Club.
" On Friday, September 16th, 1960,
"officers from Number 17 Division
"executed an Order for Search on the
"Somerset Club premises. Seven
"persons were present, and among them
"were Albert James Stoutley, 1300
"Eglinton Avenue West, Apartment 1,
"and Victor Chernick, 80 Walmer
"Road. Both these men stated that
"they were club members. On many
"occasions, Stoutley was found on the

"premises of the Bellevue Club,
"431 Spadina Avenue. He also
"identified himself as a member
"of the Somerset Club.
" On Sunday, April 2nd, 1961,
"officers from Number 17 Division
"executed an Order for Search on the
"Somerset Club. Among those present
"was Sydney Traister, 157 Jameson
"Avenue, Apartment 405, who
"identified himself as a club member.
"This is verified by his club
"membership on file. Traister was
"also a member of the Clarion Club,
"301 Yonge Street, Club Bernard, 560
"King Street West, . . . " -

whose address we saw the other day on three occasions -

". . . Atlas Club, 207 Spadina Avenue,
"and the Bellevue Club, 431 Spadina
"Avenue. His name also appeared
"as a visitor to the Jordan Club,
"164 Adelaide Street West.
" On Friday, September 2nd, 1960,
"an investigation was conducted on
"the premises of the Clarion Club,
"301 Yonge Street, by officers from
"Number 1 Division. This resulted
"in the arrest of Samuel Sokalsky

"and Edward Eisen on charges of
"Keep a Common Betting House and
"Engage in Bookmaking. They
"appeared in court on November 1st,
"1960, before His Worship, Magistrate
"G.A. Thoburn, when Eisen was con-
"victed on the betting house charge
"and was fined $500.00 or three
"months imprisonment. The remaining
"charge of Engage in Bookmaking was
"withdrawn. All charges against
"Solmisky were dismissed.
" It was noted, from observations
"taken on the Clarion Club premises
"immediately before the arrest, that
"Sydney Traister was absent, and it
"was believed that he was recording
"bets which were taken on the club
"premises and other known betting
"establishments. Subsequently,
"on September 13th, 1960, a warrant
"was executed at the home of Sydney
"Traister, 157 Jameson Avenue, Apart-
"ment 405, by officers from Number
"1 Division. As a result, Traister
"was arrested on charge of Record
"or Register Bets and Engage in
"Bookmaking. Betting sheets for a
"four-day period, totalling $65,000.00

"in bets on various sports and
"horse races, were seized. Many
"well known bettors' names appeared
"on these betting sheets, and listed
"thereon was the name of the Jordan
"Club, showing a $1,000.00 bet and
"$500.00 of this was laid off with
"the Somerset Club. There can be
"no doubt that this was in relation
"to the Somerset Club at 4140 Bathurst
"Street as this is the only club by
"that name. The Somerset name
"also appeared on the pay-off sheet.
"(These sheets are still available
"for examination.)
" Sydney Traister appeared in
"court on November 3rd, 1960, before
"His Worship, Magistrate C.A. Thoburn,
"when he pleaded guilty to the charge of
"Record or Register Bets and was fined
"$200.00 or 40 days imprisonment.
"A four-day business of $65,000.00
"would indicate a yearly turnover
"of approximately $6,000,000.00.
"When Traister was questioned regarding
"the person for whom he was writing,
"he stated 'I don't know. I meet
"a man at Yonge and Gerrard, or some
"other downtown corner, once a week,

"and get paid there."

" Sydney Traister was also
"present on the Somerset Club premises
"on several other occasions, and he
"stated that he was a member of
"the club, which is corroborated
"by his membership card on file on
"the premises. As well asbeing a
"member of the Somerset Club and the
"Clarion Club, Traister was a member
"of Club Barnard and a guest at the
"Jordan Club; the latter three clubs,
"of course, all being dissolved
"following convictions on betting house
"charges.

" On Friday, May 25th, 1962,
"at approximately 9.15 p.m., officers
"from Number 17 Division executed
"an Order for Search on the Somerset
"Club premises, and present was
"one, Ruben Stein, 102 Laurelcrest
"Avenue. He identified himself as
"a club member. This is the same Ruben
"Stein who was observed, by Number
"1 Division officers, to contact two
"known bookmakers in the downtown area
"and than proceed, by auto, to 353 Betty
"Ann Drive, where he parked his car
"some distance away and proceeded

"to these premises on foot.

" On Tuesday, March 28th, 1961,
"at approximately 3.40 p.m., officers
"from Number 1 Division executed an
"Order for Search on the premises
"at 353 Betty Ann Drive, and the
"investigation resulted in the arrests
"of Ruben Stein, Martin Wolfish and
"Pearl Wiseman on charges of Keep a
"Common Betting House, Record or
"Register Bets and Engage in Book-
"making. Also charged by summons were
"Sam Band and Freda Band, 353 Betty
"Ann Drive. Sam Band was not
"present when entrance was first
"gained, but arrived shortly after,
"and as his wife, Freda Band, was under
"the doctor's care, they were not
"arrested. This address was the
"site of a very large operation,
"and large bets were received on two
"telephones from many points outside
"Toronto, including points in
"United States."

The next paragraph deals with the hearing of these charges. Then, the report goes on:

" A warrant was executed at
"the Bell Telephone Company in

"relation to the phones installed
"on the premises at 333 Betty Ann
"Drive, and the records showed
"numerous calls to points such as
"Queenston, New York; Chicago,
"Illinois; Covington, Kansas;
"Buffalo, New York, Cleveland, Ohio;
"Florida; and Canadian centres such
"as Hamilton, Preston, Montreal and
"Guelph. The approximate monthly
"toll charges were $1,300.00. It
"is noteworthy that these large tolls
"to this address ceased the day
"following the arrest. When
"approximately $15,000.00 per year is
"spent on telephone charges alone,
"this would surely indicate a very
"large operation of illegal betting.
"Bearing all other matters in mind,
"the fact that Ruben Stein was a
"part of this operation, and also a
"member of the Somerset Club, is a
"little more than just coincidence.
" On Tuesday, February 6th, 1962,
"at approximately 8.15 p.m., an Order
"for Search was executed onthe Somerset
"Club premises by officers from
"Morality Bureau. One, Edward Mallins,
"alias Malinsky, 131 Elmridge Drive,

"53 years, secretary-treasurer, was
"questioned, and he related that he
"sometimes banked the club money in
"his own personal bank account, and
"when bills became due and the club account
"was low, he would use the funds in
"his own account to meet the bills.
"When it was pointed out that this
"was not correct procedure, he stated
"that he thought some money had
"been loaned out to the members. At
"this time, the club membership card
"file was checked, and one card bearing
"the name of Bernard Frankel, 57
"York Downs Road, was found. Frankel
"is part owner of the Vogel Furniture
"Company, 121 McCormack Street, and
"is also a part owner of Globe Sofa
"Mfter Company, 48 Abel Street.
" The premises at 48 Abel Street
"were under observations for a period
"of time in October and November 1961,
"and it was noted that they were
"frequented daily by one, Dave Gilbert,
"1312 Seugog Street, Oshawa, who
"is a Somerset Club member, and one,
"Reginald Dunn, 63 Brayvin Drive, a
"club steward of the former Jordan
"Club. A check of the Bell Telephone

"records on Gilbert's home
"telephone showed a toll to many
"convicted and suspected bookmakers
"in the Toronto area."

THE COMMISSIONER: What is that name, Gilber or Gilbert?

MR. ESTEY: Gilbert.

THE COMMISSIONER: Spell it.

MR. ESTEY: G-i-l-b-e-r-t. Have Gilbert.

"A check of the Bell Telephone records
"on Gilbert's home telephone showed
"a toll to many convicted and suspected
"bookmakers in the Toronto area. It
"is believed that the Globe Sofa
"Hiter Company, 48 Abel Street,
"was being used, with the full know-
"ledge of Bernard Frankel, by Dann and
"Gilbert as a 'relay' or 'back end',
"and Gilbert's home telephone was
"used as a billing address for the
"illegal betting operations at 48
"Abel Street. Gilbert was also a
"member of the ex-Jordan Club."

The names of those have significance. In passing, Bernard Frankel is the one we saw in the Queen City Bridge and Social Club, and that group of clubs, with Irving Bluestein.

" On Monday, December 11th,
"1962, officers from Morality Bureau

"and the Ontario Provincial Police
"arrested Reginald Dann, 37 years,
"63 Brayain Drive; Ernest Midgely,
"51 years, 33 Princeton Road;
"Jack Riggs, 42 years, 4 Belvedere
"Blvd; Leslie F. Digby, 36 years,
"727 Annette Street; Raymond Cole,
"47 years, 596 Christie Street; Joyce
"miller alias Gereau, 32 years, 301
"Parklawn Road, and Marguerite L.
"Vice, 34 years, 170 Park Road South,
"Oshawa, on joint charges of
"Conspiracy to Keep Common Betting
"Houses."

The next paragraph deals with the hearing of these charges and sentences imposed.

Then, the report resumes:

" On Saturday, June 2nd, 1962,
"at approximately 2.30 p.m., officers
"from Morality Bureau executed an
"Order for Search on the Somerset
"Club premises. Among the fifteen
"persons present were David Stillman,
"28 Studacona Drive, 44 years, a club
"member, and Morris Saltzman, 15
"Blue Forest Drive, 42 years, who was
"identified as a guest of David Stillman.
"Both these men were former members
"of the Jordan Club. David Stillman

"was also a member of the Lakeview
"Athletic Club, the Jordan Club, Club
"Bernard and the Atlas Club. Morris
"Saltzman was also a member of the
"Atlas Club and the Stag Club.

" A check of the records of the
"Bell Telephone Company indicates that
"Morris Saltzman is in contact with one,
"Ralph Rutledge, 61 Sylvan Avenue,
"Scarborough. In October, 1960,
"Rutledge was arrested at his home
"by officers from Number 1 Division
"on a charge of Keep a Common Betting
"House. On entering the premises,
"under the authority of a warrant,
"Rutledge was successful in burning
"all the papers before being apprehended.
"On December 16th, 1960, when he
"appeared before His Worship,
"Magistrate J. Butler, the charge
"against him was dismissed.

" Ralph Rutledge was also arrested,
"along with his parents, Horace and Amy
"Rutledge, 61 years and 51 years
"respectively, at the same address,
"61 Sylvan Avenue, on April 24th, 1962,
"and charged with Keep a Common Betting
"House and Engage in Bookmaking.
"These charges are, at present, pending

"before the courts. Although
"Ralph Rutledge is not shown as
"a member of the Somerset Club, the
"fact that he is in constant contact
"with Morris Saltzman, a Somerset
"Club member, is noteworthy.
"Rutledge was also a member of the
"Jordan Club."

Then, it deals with Morris Saltzman and Morovitz. Perhaps I should read it:

" Morris Saltzman also
"contacts, by telephone, at least
"one convicted bookmaker, one, Arthur
"Morovitz, 18 Watts Avenue, Chelsea,
"Massachusetts. Bell Telephone
"records indicate that Saltzman
"is connected with a gambling casino
"in Cincinnatti, Ohio.

" A check of the Somerset Club
"membership list shows, in addition
"to the persons previously mentioned,
"the following members who are also
"members of several other chartered
"clubs. Some of these clubs have
"had their charters cancelled or
"action is pending in this regard:
"G. Hughes, 1598 Eglinton Avenue
"West, was also a member of the
"Arlington Club, 1623 Queen Street East.

"Joseph Bookbinder, 61 Neptune
"Drive, was also a member of the
"Lakeview Athletic Club, the Atlas
"Club and the Jordan Club. This
"man showed his place of business,
"at one time, as 881 Eglinton Avenue
"West, the former branch office of
"the Jordan Club.
"Tony Carudona, 278 Betty Ann Drive,
"was also a member of the Arlington
"Club and the Nordan Club.
"Max Fialkow, 3815 Bathurst Street,
"was also a member of the Lakeview
"Athletic Club and the Bellevue Club.
"On Tuesday, May 9th, 1962, at
"approximately 1.30 p.m., officers
"from the Morality Bureau executed
"an Order for Search on the premises
"situated at 567 Riddelle Avenue.
"An investigation resulted in the
"arrest of Fialkow on charges of Keep a
"Common Betting House and Engage in
"Bookmaking. Fialkow appeared in
"York Township Court on Wednesday,
"July 4th, 1962, before His Worship
"Magistrate J. Butler, and was
"sentenced to two months imprisonment
"plus a $500.00 fine or an alternative
"of two months imprisonment on the

"charge of Engage in Bookmaking.
"The charge of Keep a Common Betting
"House was withdrawn.
"Frank Hughes, 21 Christina Crescent,
"was also a member of the Jordan
"Club and the Arlington Club.
"Allan Nerenco, 515 Champlain Crescent,
"was also a member of the Lakeview
"Athletic Club.
"Ben Rosenberg, 111 Whitburn Crescent,
"was also a member of the Omega Club.
"Jack Rosen, 2550 Bathurst Street, was
"also a member of the Clarion Club
"and the Lakeview Athletic Club.
"Ben Sugarman, 59 Fraserwood Avenue,
"Apartment 5, was also a member of
"the Jordan Club and the Atlas Club.
"Hyman Lustig, 22 Lyonsgate Avenue,
"was also a member of the Clarion
"Club and the Atlas Club. (Record
"contained in July, 1950, report.)
" The following are the dates
"of cancellation of chartered clubs
"mentioned in connection with Somerset
"Club members:
"The Clarion Club, formerly 301 Yonge
"Street, cancelled on April 8th, 1951
"following conviction of Edward Eisen
"on a charge of Keep a Common Betting

"House, on November 21st, 1960.
"Club Bernard, formerly 560 King
"Street West, cancelled on August
"7th, 1961, following gaming house
"convictions on Joseph Tripodi and
"Frank Fusci.
"The Jordan Chess and Bridge Club,
"formerly of 104 Adelaide Street
"West, with a branch at 981 Eglinton
"Avenue West, was cancelled on
"December 17th, 1960, following
"the conviction on the club itself,
"on October 7th, 1960, on the charge
"of Keep a Common Betting House.
"Lakeview Athletic Club, formerly
"of 2016A Bathurst Street, was
"cancelled on April 8th, 1961, following
"a betting house conviction on Max
"Baker, Joseph Zeldin and Samuel
"Binder on December 1st, 1960.
"The Omega Club, formerly of 382
"Queen Street West, was cancelled
"for cause on August 21st, 1961.
" In regard to the Atlas Club,
"297 Spadina Avenue, and the
"Arlington Athletic Club, convictions have
"been registered on the principals
"of each of these clubs for Keep a
"Common Betting House and Keep a

"Common Gaming House, respectively,
"and are now pending appeal. The
"Stag Club, 586 Bathurst Street,
"is now before the courts in betting
"and gaming house charges.
" On Friday, February 2nd, 1962,
"at approximately 8.50 p.m., officers
"from the Morality Bureau executed
"an Order for Search on the premises
"of the Atlas Club, 287 Spadina Avenue.
"In charge at this time were Benjamin
"Leitman, 10 Parkhill Road, 61 years,
"and Sam Goldstein, 2550 Bathurst
"Street, 51 years, vice-president. A
"search at this time revealed a slip
"of paper bearing the telephone numbers ..."

THE COMMISSIONER: How long is that? Is there much more?

MR. ENTEY: I am just about finished.

THE COMMISSIONER: Since it is going to be entered as an exhibit why take the time, and save the Reporter copying down something that will be in?

MR. ENTEY: Certainly the Reporter need not take it down, Mr. Commissioner. This is the latest police report of which I have record and it pulls it all together.

MR. WILSON: What is the date?

MR. ENTEY: This was forwarded to the

Department on July the 12th last and it is dated July the 11th. It is a re-write of one which is on file here dated the 6th of July. They deal at great length with the records of men found on the premises of the Somerset Club, or named in this report. There are two pages of names and, then, the officer concludes with these two paragraphs:

" Taking into careful considera-
"tion all the above outlined facts,
"it can only be logically concluded
"that the Somerset Club operates in
"precisely the same manner as so many
"clubs of a like nature who have lost
"their corporate powers mainly because
"of illegal gambling and betting.

" It is respectfully submitted
"that the foregoing information be
"forwarded to the Provincial Secretary,
"Queen's Park, with a recommendation
"that the charter of the Somerset
"Club be cancelled."

The Acting Deputy Chief in July stated:

" I concur in the Inspector's
"report and in view of the circum-
"stances outlined strongly recommend
"that the charter held by the Somerset
"Club be cancelled."

And that report is the basis of what you

indicated, Mr. Yaremko, as action pending in your Department?

A. Yes. The matter was referred by Mr. Cudney to Mr. Levine and by Mr. Cudney to myself on September the 14th. I replied to him on September the 26th, in which I stated:

" I would ask you to extract "from the report of the Metropolitan "Toronto Police those items upon "which we might proceed to institute "proceedings for cancellation, and "if they relate to the matter of "evidence of illegal gaming, I would "ask you to consult with the Attorney-"General's Department, in order that "we might come to a decision."

And, of course, because of these present hearings, no decision has been made as yet in this regard.

Q. Now, you referred it to the Attorney-General. What did you want to get from that Department?

A. No. I am suggesting to him "If they relate to the matter" he is to extract from the report, and it is a very lengthy report.

Q. Yes.

A. But I have asked him to extract those of which he believes may form the basis --

THE COMMISSIONER: Q. Of cancellation?

A. Of cancellation. And, if an item relates to the matter of evidence of illegal gaming I have asked him to refer that to the Attorney-General's Department.

Q. Mr. Ketey wants to know why?

MR. KETEY: Q. Yes.

A. You will recall, I discovered subsequently myself in January of 1960 there had been a meeting between the then Provincial Secretary and the Attorney-General and officials, and there had been a discussion that if one of the grounds was the allegation -- the evidence of illegal gaming -- that is, based on a conviction for illegal gaming - the matter would be discussed with the Attorney-General's Department, he having within his establishment men who are experts in the field of criminal law, which, of course, we may have experts but I do not know whether they are experts in the field of criminal law, as far as evidence of illegal gaming.

Q. First of all, there is no evidence that the Somerset Club held any real estate?

A. Not to my knowledge. I think the evidence is that they leased premises. They leased the present premises.

Q. No evidence they carry on athletic competition in which the liability for

physical injuries is present?

A. Not to my knowledge.

Q. In fact, Mr. Yaremko, reading the two police reports over a span of two years, there is no evidence of any real bona fide social club operations at all, is there?

A. I don't know what you mean by "bona fide social club". It evidently -- People mmmk met there for gambling purposes.

Q. And that is the evidence that spreads over two years and I am wondering, on the basis of this report in July of 1962, why the Department allows this club to continue operating? Did you consider suspending the charter while you looked into this thing?

A. No, we have no authority to suspend.

Q. Do you ever write letters telling clubs to suspend operations pending cancellation proceedings?

A. We have in those instances where we have instituted cancellation proceedings. We have not as yet had an opportunity to sit down and consider whether cancellation proceedings will be instituted. The initial letter has not gone out because the Department is inthe process of obtaining the information on which a decision is to be made, on which the initial letter instituting cancellation proceedings will be sent out.

Q. There seems to be some evidence in these two reports that operations of considerable magnitude are going on, and in the face of that I am wondering what policy the Department takes to effect its policy? Delay seems to profit the gamblers.

A. If I may say, Mr. Estey, if there is an implication of delay I think the overall picture of the Departmental activities in the past two years can be taken into account. We are confronted with the operation of a very large Department. We have tried to present to you all the material that is relevant. The aspect of social clubs and gambling is a very serious one, indeed. I suggest to you, however, that the other -- that in the minds of the people concerned with the other divisions of the Department and the heavy volume of business that has to take place, I offer no excuse for this; the timing and facts speak for themselves, your lordship.

Q. Thank you, Mr. Yaremko. Now, may we move on.

A. Before we move on, Mr. Estey, I noticed in the file a memorandum dictated for the record by Mr. Gudney, the Deputy Provincial Secretary, dated January the 18th, 1962. There are two relevant paragraphs which I would like to bring to your attention in

this memorandum, your lordship. He refers to the -- This is a summary of the file. He refers to the application for change, which was refused, and the police reports of the Metro and C.P.P. and he continues in this fashion:

" The Deputy Minister referred "the report to Mr. Margolian, "departmental solicitor and under "date of July 25, . . ."

The books were received. A special letter was written for a special return. Then, the memorandum goes on:

" The books were received, in "compliance with a special return "and were handed by the Deputy "Minister to Mr. Lavine for review. "Mr. Lavine recalls that after he "returned from holidays, after "Labour Day in September 1960, the "books were on his desk, that he "looked these books over and he "recalls discussing them with the "Deputy Minister and it appeared "from the books that the club powers "had not been forfeited for non-"user, as there had apparently been "continuous user of corporate powers.

" The Deputy Minister recalls

"discussing the matter of the
"cancellation of the charter with
"the Minister at the time (whether
"the Acting Minister or the Minister)..."

And that was in a period where I was away myself for illness and he is not sure whether he discussed it with me or the person acting for me.

". . . and it was determined that
"as the club powers had not been
"forfeited, as there was no con-
"viction, and there did not appear
"from the police report to be
"sufficient evidence of illegal
"gaming, the charter could not be
"cancelled."

That is in the summer of 1960. It refers to matters in the summer of 1960. Then, he goes on to say:

" The Deputy Minister . . ." - that is, himself -

". . . was away, due to illness,
"from January 8th . . ."

It would appear I reconsidered the matter. So, this particular decision had been considered twice, based on the same report. This, I assume, is a memorandum which Mr. Cadney dictated, as was his custom, in preparation for the presentation to the Commission, for

C/6

the record.

Q. That was not written in the ordinary course of departmental business, that was written in preparation for your brief?

A. Yes, but it sets out the recollection of his mind as to what took place, because you asked me what took place between July and February. They are in the one year. It had slipped my mind that these two paragraphs were relevant to your question, Mr. Estey.

Q. It occurs to me as a relevant summary of that file that the police are objecting to the user, not the non-user, and two of your officers have reviewed the file with relation to non-user.

A. The Provincial Secretary has authority, upon sufficient cause, and I suggest to you that they were seeking to see whether they could come to a conclusion and advise me whether, and that I could come to a conclusion myself as to whether there was sufficient cause. Because, Mr. Estey, in the exercise of my discretion it is not what I want to do or like to do; I am bound by the statute to find sufficient cause within my discretion.

Q. Now, may we turn to the Omega Club.

THE COMMISSIONER: Ten minutes.

---Short recess.

(Page 13465 follows)

D/JYC'D/1

---On resuming:

THE WITNESS: Before we go on I wonder if we could round out the picture with regard to the Somerset. The statistics filed by the 23 clubs concerned. The Somerset and the Sun Sun were the only two clubs where there had been recommendations by Chief Mackay for applications for change of premises where cancellation proceedings were not instituted. Those were the only two, to my recollection. All the clubs referred to in this report read by Mr. Estey in which the police officer refers to other clubs, all other clubs had been cancelled by me or proceedings instituted.

MR. ESTEY: Q. The Atlas Club was mentioned?

A. Proceedings have been instituted.

Q. But not cancelled?

A. I said were cancelled or proceedings instituted. The only one is the Static, and we have not received a report on that.

Q. It is mentioned twice. Now, we have the Omega Club, and I think you have that file before you. The first police report was August 20th, 1954.

THE COMMISSIONER: Where do I find reference to that in the brief?

MR. ESTEY: Page 74 of the brief proper --

ns, 34 and 35 of the brief proper, and it is mentioned in Appendix K at page 7, Appendix J at 916 and 20. You will see the report. I think it is a letter to the Chief by Mr. Cudney, dated August 20th, 1954, a recommendation by the Police Department for cancellation. The details I will not go into.

A. My knowledge commenced with the report dated April 27th, 1961.

Q. I will be getting there. What happened to the police recommendation at that time, from your file? I think you will see a memo dated October 14th, 1954.

THE COMMISSIONER: Did you say it was Appendix "K"?

MR. WILSON: Page 7.

THE COMMISSIONER: Thank you. I have it now. What is your question?

MR. LETTY: What disposition was made of the police recommendation in 1954?

A. It may be difficult for me to follow, your lordship, as these are matters which -- there is a memo from a Mr. Kingsmill to Mr. Cudney dated October 14th, 1954, and it says -- I don't think it mentions the disposition of the matter:

"The Toronto City Police Department has reported that it has a reasonable suspicion that the

"above company, incorporated by letters
"patent dated February 27, 1925, is
"conducting gaming operations on its
"premises. No police restriction is
"contained in the charter, and the
"evidence procured to date by the
"police would appear to be inconclusive
"in establishing that gaming operations
"are, in fact, taking place, although
"several of the members of the club,
"apparently, have criminal records.
"This, of course, does not affect the
"status of the club itself."

Q. Then you finally held a hearing, an undated, typed memo, regarding a hearing December 6th, 1954?

A. Your question is the Department. I was not within the Department at that time and cannot speak from personal knowledge.

Q. In the file it culminates in a hearing, in your file, December 6th, 1954?

A. I have a letter, January 10th, 1955, from Mr. Cudney to Inspector Walker.

D/2 "I refer to the hearing held
"at this office recently relative
"to the above club.

"After careful consideration
"of the evidence submitted, it is
"not deemed advisable to take any

"steps to cancel the letters patent of "this club at the present time.

"The books and records which "you left at this office may be "obtained by the club at any time."

Q. Just before that there is a typewritten memo and some handwritten notes.

THE COMMISSIONER: Was the hearing December 6, 1954?

A. There was a hearing set for December 6, 1954.

Q. When did it take place? That memo is in 1955.

A. January 10th, 1955.

MR. ESTEY: Q. There is a part of the report, December 6th, 1954, and there is a typewritten memo on the file with some handwritten notes on the memo. The effect of it is that the officer of the club and a policeman who attended the hearings produced evidence and somebody said the cash book was prepared at one sitting and the minute book was at least brought up to date at another sitting. I want to find that. Would you find that?

A. There is a memorandum unsigned, undated, and it does not give any indication of what the memorandum is. It is a memorandum from whom to whom. I don't know. Mr. Cudney

may enlighten us.

Q. In that memorandum, does it set out what I raised, the cash book at one time and the minute book at another?

THE COMMISSIONER: Do you see that?

A. I have that memo. Yes. It says, after two pages, the third page:

"The club produced and filed as "an exhibit a financial statement for "the ten month period ending "October 30th, 1954, together with a "cash book for the year together with "a minute book. It seems obvious "that the cash book was prepared at "one sitting and that the minute book "was at least brought up to date at "one sitting.

MR. ESTEY: Thank you. The next event as regards police reports, I believe -- perhaps there is a letter February 16th, 1960. Would you turn to a letter from Mr. Goodman to Mr. Cudney, the effect of which is the club has not been as active as formerly and we are at a loss to understand why there are any objections as to their activities. Do you see that? That is followed immediately by a police report dated April 26th, 1960.

A. Yes, there is such a letter and report.

Q. In that report you will find ---

THE COMMISSIONER: Police report dated?

A. 21st April, 1960.

Q. What police report?

MR. ESTEY: Metropolitan Toronto.

A. There is a memorandum from Mr. Walker, Inspector Walker, to James Mackey, April 21st, and a letter from Mackey to Mr. Cudney, dated April 26th.

Q. Would you read the letter of April 26th, a very short letter?

A. "I am enclosing for your "consideration copy of a report dated "April 21st, 1960, which has been "submitted to me by Inspector E.R. "Walker, officer in charge of our "Morality Bureau, regarding the "operations of the above mentioned "social club.

"I concur in the Inspector's "report and strongly recommend that "the Provincial charter held in the "name of this club be cancelled."

Q. The police report is four pages long, and if some one else does not want it read I would not, but there is a paragraph at the bottom of page 3 dealing with this club which is a little different.

A. Why don't we file the whole report?

Q. Would you read the one paragraph on page 3, Mr. Yaremko?

A. The last paragraph? Is that the paragraph:

"During the years the Omega Club "was active, it is believed to have "been a large scale bookmaking and "gambling house as investigation of "polls levied on listings Empire 6-9577 "and Empire 6-9578, of the Omega "Club, over a three month period "disclosed a $742.20 charge."

It does not seem to state what period that covered.

"On being confronted with this "statement the excuse given was that "a large number of long distance "calls had been made by members "who reimbursed the club at later "dates. This statement would "tend to conflict with an enquiry "made in April of 1956 when a "letter was received by Mr. S.R. "Stevens, general commercial manager "of the Bell Telephone Company of "Canada,76 Adelaide Street West, "requesting listings for six numbers "uncovered by a special Commission "investigating a crime and a gambling

"syndicate in a large New England State.

"A search of files at the Bell Telephone

"Company revealed that three of the

"numbers were listed to the Acme Card

"and Social Club and one to the Omega

"Club, both of Toronto.

"Apparently the Omega Club is now

"inactive."

Q. There are the names of two other clubs, one is the Parthenon Club, and the other the Atlas Club?

A. There are several here. Where were you?

Q. I did not notice the page.

THE COMMISSIONER: Draw his attention to the particular place.

A. I see.

"All of these clubs have been

"convicted of Gaming or Betting House

D/3 "charges with the exception of the

"Grenville (Parthenon) Club which is

"presently under investigation by

"this department."

Q. We won't take the time -- somewhere in there the Atlas Club was mentioned.

THE COMMISSIONER: However, let us assume it is.

Q. I wanted to ask the witness to draw his attention to page 34 of the brief

which says the Atlas and Parthenon and eleven other clubs had not been the subject of any complaints prior to the date in June, 1961, 30th June, 1961. It seemed those two clubs had figured in police reports prior to that date?

A. It appeared that they were mentioned. We found one that was under investigation. We are talking about no complaint received. I refer you to Appendix K which is the list prepared in response to Mr. Cudney's letter and telephone conversation. He says -- it is on the first page of Appendix K:

"I understand from the Morality "Bureau that the list contained in "this report includes all the "incorporated social clubs with "respect to which your Department "has filed complaints with this "Department for the past ten years."

And I refer to the Atlas and the Arlington Clubs which appear on page 10, and Chief Mackey says no adverse reports received as yet. I don't think the Parthenon Club appears in Appendix K.

Q. Speaking of Appendix K, there was no mention of the Sun Sun in there either?

A. No, nor of the Somerset.

Q. But those are not mentioned prior

to 19th September, 1961. If you look at the top of page 2, Appendix K, the heading of this report which is signed by Inspector Thurston, "The following charters cancelled for cause". The Somerset and Sun Sun, not being cancelled, you would not expect to find them in there?

A. That is a sub-heading. They are all cancelled for cause, but they segregate them into two classifications.

Q. And the report is forwarded by Chief Mackey and he does not say it is all the reports. He sends Mr. Thurston's report. This might be a good time to point this out: this Appendix K is not a digest of all adverse reports but of clubs cancelled.

A. You should have, or should direct your questions to Mr. Sudney.

(Page 13480 follows)

Z/GRS/1

A. I think perhaps, Mr. Estey, that you should direct your attention to -- you should have, or should direct your questions to Mr. Gudney, because Mr. Gudney had both telephone conversations and he will know explicitly what he requested, and then his letter confirms what he requested.

Q. All right.

A. I don't know.

Q. Perhaps you are right.

A. There are -- there are on pages -- pages from nine to -- nine to eleven there are mention of clubs in which -- in respect of which cancellation has not taken place, and it states who the reports were submitted from, and no -- no adverse reports submitted yet there. We have -- we have gone to Chief Mackey's statement is so indicated or reproduced, and then consequently we have to press on with Roberts' comments to bring it up to date.

Q. Let's get back to the Omega chronology. Here. That report dated April the 21st was forwarded to the Department by letter dated April 26th, and the recommendation was, as we have seen, I think the word is strongly recommending cancellation. Now, what disposition did the Department make of that recommendation?

A. No cancellation followed. I believe at that time, I am not ---

Q. No, I don't think the file explains what happened, but no cancellation followed? Thatis right, isn't it?

A. That is right.

Q. Then the next event is on May 8th, 1961, there is a letter to you from Chief of Police Mackey. That is ---

THE COMMISSIONER: What date?

MR. ESTEY: The 8th of May, 1961, Chief Mackey to the witness. Do you have it before you?

A. Yes, I have.

Q. Is that a very long letter?

A. It is a letter of the 8th of May, one page, enclosing ---

Q. Would you mind ---

A. --- enclosing a report to -- from Chief Mackey, enclosing a report to Chief Mackey, of one, two, three ---

Q. Would you read the covering letter first, please?

A. Seven pages long, and the covering letter from Chief Mackey to myself is:

"I am enclosing herewith copy "of a report from Inspector E. R. "Walker, in charge of our morality "bureau, relative to the Omega Club,

"situated at 382 Queen Street West, Toronto.

"I would ask that you read this "report quite closely . . . "

Incidentally, your lordship, I read all reports closely.

" . . . and it will indicate to you "the types of clubs that are so-called "social clubs, operating under charter, "in this metropolitan area. I would "also ask you to take careful note "of the type of individual who "frequents these clubs.

"In view of the information "contained in this report, and the "fact that the premises where the "club was situated are now closed, "I would strongly recommend that "the charter held by this club be "cancelled. This type of club is "a breeding-place for all types of "crime, and I would ask for your "utmost co-operation in ridding the "area of this menace."

Q. Of this what? This menace?

A. Of this menace.

Q. Right. Now, the attached report is quite lengthy, and I don't think we should read that report, it is seven pages long, I think you said.

A. This charter was cancelled in July.

THE COMMISSIONER: That report is dated April 27th, 1961?

A. April 27th, enclosed in the letter dated May 8th, 1961.

Q. Yes, I know, but the report itself was April 27th, 1961?

A. Yes.

Q. And the charter was cancelled on August 27th, 1961?

A. Now, it was dated the 21st of July, 1961, effective the 21st day of August, 1961.

Q. The 21st?

A. Dated the 21st of July, 1961, effective the 21st of August, 1961, signed by me.

MR. ESTEY: Now, Mr. Commissioner, this report is too long to read, but also is of the comprehensive type of report, and with your permission I would like to have that filed as an exhibit.

THE COMMISSIONER: We had better not lose track of this copy. Make a note of that, Mr. Registrar, that the police report dated April 27th, 1961, re Omega Club.

THE WITNESS: My lord, the Department has facilities for photostating, and perhaps ---

THE COMMISSIONER: Well, I was advised during the morning recess they are photostating these now. I think the Provincial Police Department are doing that.

A. I see.

THE COMMISSIONER: We will get it done in any event.

MR. ESTEY: Now, as a result of receiving that police report I think there is a memorandum on the file dated the 23rd of May, 1961, from Mr. Margolian to Mr. Cudney?

A. Yes.

Q. Where he says in part that it was questionable whether sufficient evidence of gambling to warrant cancellation, and then he goes on to suggest that there may be grounds for forfeiture away back in 1925 to 1941, and so on. Do you see that?

A. Yes.

Q. And then as a result of that Mr. Cudney wrote to Chief Mackey asking to investigate the non-user grounds, and then ultimately why did you cancel that charter?

THE COMMISSIONER: What do you mean? On what grounds?

MR. ESTEY: On what grounds, yes, sir.

A. The letter sent by Mr. Cudney to the club was dated July the 6th, 1961, reads as follows:

"The following matters have been "brought to the attention of this "Department:

"On September 22nd, 1960, while "members of the Metropolitan Toronto "Police Department were conducting "an investigation on the premises "of the above corporation, the "persons present on the premises "apparently became very hostile and "threatened the police officers "and the situation developed into "a free-for-all in which police "officers were knocked to the floor "and, as a result thereof, one "Joseph Irwin was convicted of "assaulting a police constable "engaged in the execution of his "duties."

Q. Well ---

A. And then he says:

"I would advise that unless "cause is shown to the contrary . . ." -- the usual form of letter.

Q. Well, and that letter is in turn based on a memorandum which I think refers to

a conversation that arose dated the 27th of June, 1961, which Mr. Cudney writes a memorandum to Mr. Davine that you say you discussed the matter with the Minister and he has directed the letters -- a letter of cancellation be sent emphasizing that Irwin had been convicted. Do you see that?

A. Well, he says:

"I have discussed the above "matter with the Minister and he "has directed that we send out a "letter of cancellation.

"Would you prepare such letter "over my signature and, in such "letter, would you refer tothe "fact that when the police were "conducting their investigation "those present in the club became "very hostile, threatening the "police and it developed into a "free-for-all, . . . " -- etcetera.

Q. Yes. Now, is there any evidence in the file that this gentleman Irwin is connected with the club?

A. There is a police report enclosed -- enclosing a certificate of conviction of one Joseph Irwin.

Q. Right. Any evidence on the file that he was connected with the club?

A. Yes. It says in here about the assault on a police officer by Joseph Irwin during the investigation at the Omega Club premises on September 22nd, 1960. That would -- I assume is the same as the Joseph Irwin referred to in the ---

Q. If you will turn to page 2 of the police report on the 27th of April, 1961, the first reference to Mr. Irwin is in the second paragraph, the second sentence it says that Joseph Irwin, 57 Tenth Street, New Toronto, came to the club and was informed by a police officer that the police were conducting an investigation, and that he couldn't enter the premises, and there then ensued the riot. Now, I would like you to direct your mind to this question we have discussed here at some length, the question of gambling convictions on club premises where the person convicted is not an officer or directly connected with the club, and there was some hesitation shown through the files about a cancellation based on those grounds. Now, we have a cancellation based on the grounds of a disturbance of the peace, and assaulting a police officer by one James Irwin who apparently happened -- Joseph Irwin happened on the scene during the investigation --

2/2

during the raid. Now, is this a new policy that you cancel in this kind of activity, or when did that policy start?

A. I don't know whether it was policy, but I evidently took a very serious view of this, and the fact that Irwin was tied in with the club. I felt that I would use that as a ---

THE COMMISSIONER: How was he tied in again?

A. By references in the police report.

Q. He wasn't tied into the club through anything in the report?

A. No, but the reference ---

Q. He was some one who came along while the police were actually engaged on the raid?

A. In reference to the premises.

Q. He wanted to get in and they wouldn't let him, and therefore he assaulted the officer.

A. My -- my sentence should have been in reference to the premises of the club, my lord.

MR. ESTEY: I see.

A. I may say, your lordship, that in respect to these letters of cancellation, I recall -- this is speaking from recollection,

that when I first became aware of the form of the letter of cancellation, it was a letter that I believe was a "show cause" letter. It just said we propose to cancel -- we propose to institute proceedings to cancel unless you show cause otherwise, and I discussed that, I believe, with Mr. Cudney, and it was my opinion, with which I think he concurred very readily, that we might be open to criticism if we didn't at least indicate to the recipients of the letter what they were being charged with specifically, and then we began to list a reason that -- the Department began to list a reason upon which they felt that it could form sufficient cause and then latterly again I developed with Mr. Cudney that -- that we send by the letter we include all likely -- we figuratively throw the book at the -- at the organization, and list anything that could possibly lead to a cause for cancellation, and then await the evidence at the hearing to determine which of the allegations we set out in the letter are proven, and then on the basis of that the Minister would form his decision as to -- as to whether to cancel, because to pick and choose -- to pick one reason out of a police report, it may be that whatever we thought that may be the strongest reason,

that reason may collapse on the hearing, so we now ---

THE COMMISSIONER: I think very wise.

A. We include all the allegations.

MR. ESTEY: Incidentally, speaking of including all the allegations, I notice that in this police report of Omega there is evidence of an interview where the man said

E/3 he sold the club to a man named Harry Mannis, on the first page, third paragraph, evidence of the sale of the Omega Club, and that occurred shortly after its incorporation, but I don't see any reference to that in subsequent departmental work dealing with that club.

A. No. I think -- I think, Mr. Estey, that again if I may clarify for your knowledge, and his lordship's knowledge, early in May when Mr. Cudney returned from his lengthy illness we had a discussion which really turned about two general things. I asked him to review all the specific files which were in the -- in the Department, so that we could take action on them, and I think the evidence will show that he went around and gathered up all the outstanding reports, and then subsequently we took action, and then I discussed with him -- this dealt with specific instances, and I

suggested to him that after a while we would meet together to deal with -- with matters relating to policy generally as to the -- to the form that the -- the forms that the Department would follow. I, by this time, was becoming aware of some of the difficulties and the problems concerning the Department, and Mr. Cudney had had a long experience in these things, and I think I used the words that he, with his experience, and my sort of coming in with a -- with a new look seeking out some of these answers -- to different questions to which he would give me answers, that perhaps he and I could evolve some new aspects to strengthen both the arm of the police and our departmental procedure, and I think it was subsequent to that that we evolved this policy of the form of a cancellation letter.

Q. Well, in any case, it was not applied in the Omega instance, was it?

A. No.

Q. All right. Now, then, in order to not be here for several days, Mr. Yaremko --

A. I am at your disposal, Mr. Kelsey.

Q. I don't want to shut you off, or appear to become impatient, but will you answer my questions and we will get through this very quickly.

A. I thought for his lordship's assistance to give him the complete background.

Q. We appreciate it. You raised the question about procedures in this matter, possibly having discussed it I think it is obvious, and you no doubt agree that if there is gambling going on in these clubs that any delay of cancelling the charter merely plays in the hands of those improperly using the charter? That is obvious, isn't it? You agree with that?

A. On the ---

Q. Delay only profits the gamblers?

A. Well, it gives him an opportunity to continue their activities.

Q. All right. Now, then, when we look over the cancellation procedure, it has come up in many, many files here, Mr. Yaremko, and which you listened to, it appears that you send out the notice, and if some one wants a hearing, you hold a hearing, and then you transcribe the evidence of the hearing, and you circulate the evidence. It goes to the police, it goes to the person representing the club, the solicitor or an officer ---

A. There was some question whether that was ---

THE COMMISSIONER: Let him finish, Mr.

Yaremko.

MR. METKY: Mr. Yaremko, it goes to the Attorney General's Department, but in any case this involves great delay. Now, this doesn't occur, of course, in courts, and I am wondering why you continue that policy of circulating these transcripts.

A. The Minister is not present at the hearing, and yet that is fundamentally the basis for the conclusions on which he reaches his determination. I have asked Mr. Cudney, the Deputy, to place before me when I am -- when I am dealing with a file, everything to do with the file, the whole history of the file, the whole -- including the "C" file, but basically I have to be guided by the transcript of evidence.

Q. Now, that of course is not the question. The question is why do you send the transcript to the other solicitors?

A. In order to be sure that this matter upon which I am going to form my judgment is a correct transcript. It would be unfortunate if for example in the transcription there was something that was -- that was manifestly an error, and yet I in reading the transcript must accept the transcript as being what occurred.

Q. All right. Now, then, after the

transcript is circulated in your normal procedure do you have further argument?

A. Not to my knowledge, no.

Q. Then how does the solicitor complain about the transcript?

A. Well, I would assume that having been sent the transcript that he would read it, and if there was something manifestly wrong, or an error of any kind, that he would bring that to the attention of the Deputy. We haven't had such an instance.

Q. No, and even so, notwithstanding -- I was going to ask you, they are taken by Court Reporters?

A. Yes, sir, absolutely.

Q. And if as a result of the ---

MR. WILSON: Well, we had a witness write me a letter to explain about twenty errors.

MR. ESTEY: Well, then, Mr. Yaremko, as a result of the hearing, and it concludes with an argument by counsel, and argument by the person representing the Department, is that right?

A. Yes.

Q. Evidence and argument?

A. Yes.

Q. And then Mr. Cudney makes a recommendation to you?

A. Well, he brings the whole matter to my attention, the whole file.

Q. Does he make a recommendation?

A. He may, or he may not. You would have to study each of the -- each of the reports.

THE COMMISSIONER: Well, we have evidence that in some instances at least he made recommendations?

A. Yes.

MR. ESTEY: If he doesn't make a recommendation, do you ask him for one?

A. Absolutely.

Q. I see. So, one way or another, he makes a recommendation?

A. The procedure is that he sends the material to me ahead of time, with a synopsis of the matter, because some of these files become pretty lengthy. I start and read all the material to acquaint myself with the file. Having read it, and perhaps digested it, then I meet with Mr. Cudney and we discuss the file, and invariably, based on his experience, which has been considerable, he may make -- whether you call it a recommendation, suggestion, or what, it is based, we have a talk back and forth, and then I make a decision.

Q. Yes. All right.

THE COMMISSIONER: Well, now, just a moment. You don't read -- I suppose some of those hearings are very long?

A. They are exceptionally long.

Q. A very substantial volume of evidence?

A. Very substantial, my lord.

Q. As Minister you have gt so many duties, I wondered if you bothered reading the whole evidence, or do you read the Deputy Minister's digest of it?

A. I -- my procedure has been to read his digest first, to learn what is the nature of it, andthen I read everything in the file from start to finish.

Q. All the evidence?

A. Every -- all the evidence. The whole file. That is not just the evidence, but all of the background, and then I -- then I go back to his -- to his summary. I start with his summary, read every word in the file to the best of my ability, then read the -- read his summary, then I meet with him to discuss it.

Q. No wonder you are working seventeen hours a day, as you said.

A. Well, I wanted to make sure that when my decisions were made, your lordship, that they were -- that they were as

conscientiously made as I could possibly do so.

MR. ESTEY: Having in mind all that labour, why didn't you hold the hearings yourself?

A. As a matter of fact, the -- the difficulty would be this, that the time of a Minister ---

Q. I see. All right.

A. That a Minister has so many divisions of function that he cannot be in all the places, and I may say that if the House were in Session, and things of that kind, the delay would be even greater.

Q. You have not held any?

A. I haven't held hearings, no. That is not required by law.

Q. I asked you this question of delay because it is a matter of argument. There are many, many cases where there have been long delays, the Club Bernard heads that list, because it took from 1955 to 1961 to cancel it, and I am asking you whether or not, Mr. Yaremko, departmental policy, in the light of these rather alarming delays we have been going into this morning, whether you are considering changing your policy?

A. In cancellation procedures?

Q. Yes.

A. Well, we are going to -- we are -- we are always attempting to speed up all the procedures within the Department.

Q. All right.

A. Every aspect.

Q. There is no change of policy now before the Department, I take it, for hearings and transcripts?

A. No, we are going to -- not to my knowledge. I haven't discussed it. We are going to do our best as we have, Mr. Estey, during the past years, to come to grips everytime as quickly as we can.

Q. All right. Now, ---

A. The Omega there is a good example. There was ---

THE COMMISSIONER: All right. All right. Now we have the history of the Omega.

MR. ESTEY: Now, dealing with the actual operations of these clubs by the gamblers, and I am obviously going from the reports on the record, I take it that it is common ground that what is happening is that the improper use of these charters is going on inside the corporate shell, as it were, but not necessarily in contact with that shell? Do I make myself clear?

THE COMMISSIONER: No, at least not to me you don't.

MR. ESTEY: Well, let me put it this way to you, Mr. Yaremko: In the evidence that we have seen in most of these files, there is an atmosphere created by the evidence that it is not the club through its officers, president, secretary and so on, who actually sit down at the table and run a game, that the game infiltration seems to be almost as a kind of concession in the club, without necessarily very direct contact with the operations of the corporation as a corporation. Did you observe that in your analysis of these clubs? Did you cancel many of them for gambling? Did you observe that?

A. Well, it is the -- the cause for cancellation invariably, as you will see by the history of these, that I have had to cancel upon some specific -- some specific reason.

Q. Well, you have had forty-three for gaming?

A. Forty-three for gaming, and about I think two-thirds have been for gaming, and one-third have been for other reasons.

Q. All right. Let's deal with those two-thirds. In the cases involving those forty-three gaming clubs, is it not a fair generalization, and an accurate one, that these cancellations have not occurred

by reason of gaming activities inside the club, at the club premises, but not involving officers of the club, not in any way tied in to the accounting machinery of the club?

A. Not -- not to my knowledge, no. Not tied in with the accounting machinery of the -- of the club. As to officers, perhaps that -- you would have to make a scientific analysis of every one.

Q. Of every one to ---

A. Every one of them. You have named some thirty-three. Now, to my knowledge I think out of all the cancellations there were only four based on the conviction of the club.

Q. Yes?

A. And it might have been that all those instances the charges were laid against individuals, and plus the club, and that the club was convicted. I don't know.

Q. Well, there is ---

THE COMMISSIONER: Ithas occurred to me that this perhaps was one reason why you did not base the cancellation on the gambling as reported by the police departments to your department, but you thought it safer to put it on some other ground, namely, loss of corporate powers, and so forth. Am I right in that?

A. Yes, we have developed a -- as you will see, your lordship, in the section of the brief dealing with cancellation, causes for cancellation, various categories, and they have been added to from time to time as our experience has shown is necessary.

Q. You are not answering my question. Mr. Estey has been pointing out to you that in many instances there have been gambling operations on the premises, not necessarily by officers of the club, and without evidence of acquiescence, if you like, by the club itself, or direction by the club itself, sharing of the profits by the club itself, that is what Mr. Estey meant when -- I understand him now, when he said operations within the shell of the club, but not touching the shell. Now, I am suggesting to you that perhaps that may have been -- I am enquiring from you, let's put it that way, if that was one of the reasons why you chose to cancel for other reasons than gambling in cases where you had evidence of gambling?

A. Yes, my lord.

MR. ESTEY: I think on page 20 of Exhibit J you have eighteen such causes?

A. Yes.

Q. Yes. Well, now, on this of course

could be borne out by proving -- by a post mortem, as it were, when the charter is cancelled. What happens to the assets of these clubs when the charter is cancelled?

A. If there are any assets I would imagine they are forfeited to the Crown. I am not aware of any.

Q. No, I haven't heard of any that had any assets.

A. They don't usually have assets.

THE COMMISSIONER: I think that was one of the criticisms, that they didn't have any assets.

MR. ESTEY: I am just wondering whether the Crown had gotten any assets at the end by taking up the assets developed through the gambling butthat isn't really what the Act says, is it? What the Act says in Part III ---

THE COMMISSIONER: They may have had some accounts receivable, Mr. Estey.

MR. ESTEY: Yes. They should have had, if there is any contact between the gambling and the shell, there should have been some receivables. I think 115 says that a corporation may pass by-laws covering distribution on dissolution, and they must file these by-laws. Now,my question is this, has anybody filed such a by-law with you?

A. No. I -- I think, Mr. Estey, if I might just take a moment -- if I might just take a moment, perhaps we can ---

Q. Perhaps I can help you.

A. 330. Section 330 be of any assistance to us?

Q. I think we find it in 115, Mr. Yaremko.

A. Well, that is -- that is a by-law. I see Section 330 says forfeiture of undisposed property.

"Any real or personal property of a "corporation that has not been disposed "of at the date of dissolution is "forfeit to the Crown."

Q. Well, let's eliminate them one at a time. You haven't come into any property by reason of that section in respect of this Part III, clubs on cancellation, have you?

A. Not to my knowledge.

E/5 Q. No. Then on 115 -- Section 115, they can pass a by-law to distribute assets to charitable organizations, and so on. Nobody has ever passed such a by-law and filed it, to your knowledge?

A. Not to my knowledge. Of course, my knowledge would be limited as compared to Mr. Gudney's.

THE COMMISSIONER: Well, the answer is, not to your knowledge.

MR. ESTEY: And then Section 109 says that corporations shall not be carried on for the purpose of gain, profit, or other accretions to the members, so that I am suggesting to you, Mr. Yaremko, that when you see the death of one of these corporations, and its intervening heyday in gambling appears, as we have seen from the police reports, that it is obvious that the illegal gambling activities are not connected to but are protected by the charter? Correct?

A. Well, they are carried on at the premises.

THE COMMISSIONER: Just a moment. No, I am not quite so sure that that is so. You were asking the witness, you are not asking me.

THE WITNESS: Would you mind repeating that question?

MR. ESTEY: Let me put it more clearly. The full cycle of life and death of these corporations, it starts with nothing and it ends up with nothing, and they can have three weeks, I think, to get rid of its assets, and we omitted the possibility that the assets have gone to the Crown on forfeiture, and there has been no by-law filed with the

Department covering distribution of the profits mentioned in Section 115, therefore I say it is obvious, is it not,that the charter has been a sham throughout, and that the gambling activities it involved really have been carried on inside the company, but not by or for the company?

THE COMMISSIONER: This was suggested a long time ago in these hearings in connection with the Centre Road Club, I think it was.

MR. ESTEY: Yes. Well, I would like to hear what the Department's view on that is.

A. Well, actually, having read all of the reports that have been dealt with by me in the last two years, I have come to a conclusion that -- that certain individuals have been carrying on certain activities on premises operated ostensibly by the club. Now, it is very difficult -- it is very difficult of these -- for example, the twenty-nine, very difficult to pinpoint the individuals who have benefited from it, because it would appear that certain individuals have been convicted of keeping a common gaming house, and to have been convicted of that they must of necessity have been violating one of the functions which are listed in the Criminal Code. That is a rake-off, or being a banker, one of the prohibitions must -- ten cents for

instance. For example, like the Bathurst-Sheppard -- Bathurst-Sheppard, in which the reason was that they contravened theprovisions of the charter by charging more than ten cents an hour.

THE COMMISSIONER: It is way after 1.00 o'clock. I didn't recognize that.

A. In that instance --

THE COMMISSIONER: Unless my watch is wrong, it is twenty minutes after 1.00. 2.30.

---Whereupon the hearing adjourned at 1.20 p.m. until 2.30 p.m.

(Page 13500 follows)

AA/PAL/1

---On resuming at 2.45 o'clock p.m.

---The witness resumed the stand.

THE COMMISSIONER: For the record, Mr. Reporter, police reports that were referred to in evidence this morning are now being marked as follows:

Exhibit No. 295-A is the Metro Police Report dated July 18th, 1960, re Somerset Club.

---EXHIBIT NO. 295-A: Report dated 18th July, 1960, of the Metropolitan Toronto Police, re Somerset Club.

295-B is the report dated July 11, 1962, re Somerset Club.

---EXHIBIT NO. 295-B: Report dated 11th July, 1962, of the Metropolitan Toronto Police, re Somerset Club.

Exhibit 296-A is the report dated April 21, 1960, re Omega Club.

---EXHIBIT NO. 296-A: Report dated 21st April, 1960, of the Metropolitan Toronto Police, re Omega Club.

And 296-B is the report dated April 27, 1961, re Omega Club.

---EXHIBIT NO. 296-B: Report dated 27th April, 1961, of the Metropolitan Toronto Police, re Omega Club.

All right.

MR. ESTEY: Mr. Commissioner, in the noon

adjournment I looked the reference up in the Omega file, the police report - that is, to the Atlas Club - which I was asking the witness about. It is in 296-A on page 2, the second paragraph from the bottom of that page. I want to read it. It refers to one Fred Biss being in charge of the Omega Club.

Then, on page 3, the fourth paragraph, it says:

"Investigations conducted on the "Atlas Club, 287 Spadina Avenue, "located several short blocks from "the former Omega Club location at "382 Queen Street West, reveal "that Fred Biss is a member and "invariably on the premises, being "in charge of the club on a number "of occasions."

AA/2 The police report pulls these two clubs together, the same man is in charge of both.

THE COMMISSIONER: Yes.

You were asking Mr. Yaremko some general questions.

MR. METEY: Yes, sir.

On cancellation the property of these clubs goes somewhere and we came to the conclusion from my questions and your answers that these clubs, by and large, do without any assets. Then, I notice on

page 24 of your Exhibit 253, your brief, in which you say you abandoned the real estate policy. So, it is no longer required after 1956 that the applicants assert one of the reasons they want incorporation is to hold real estate. At the top of page 24 you go on and say:

" . . . further the Department would "no longer enquire as to the reasons "why incorporation was desired: . . . "

Is that the policy to-day?

A. Yes, we do not enquire, to my knowledge, as to the reason for incorporation.

Q. Right. Now, let us change to something else. We have seen two or three instances where corporations have been named in adverse reports of one kind or another and prosecutions are in train. Then, cancellation proceedings start and are held up on the request of the club solicitors, usually. I have in mind the Parthenon and the Arlington Club, and one or two others. Your policy in some instances is to hold up the cancellation proceedings; and in other instances you do not hold them up. Latterly your Department has written what amount to letters suspending the cancellation pending the criminal appeal.

A. Mr. Estey, I do not think you

have clearly summed up the situation.

Until the beginning of this year it was the policy of the Department that if we instituted cancellation proceedings and the matter came to trial in any other court that we would not proceed until the -- these proceedings had been disposed of.

Your lordship, if I may --

THE COMMISSIONER: Q. Just let me interrupt you. I am not so sure I appreciate what you are talking about. Until the beginning of 1962 if you instituted cancellation proceedings; on what footing, or for what cause?

A. On any cause, say, other than a notice of conviction.

Q. Just a moment. For any cause other than conviction?

A. Yes.

Q. What did you do? This is prior to the beginning of this year. If you instituted cancellation proceedings for any cause other than convictions?

A. And in the meantime the police brought to our attention that charges were laid and a hearing was to be held, we held up the cancellation proceedings if the hearing was to be set until the Court charges had been disposed of.

Q. Now, let me put that in my language so I will be sure I understand you. And in the meantime if police reported a conviction?

AA/3 A. Any charges having been laid be tried.

Q. All right. Charges pending and yet no conviction?

A. And yet no conviction.

Q. What did you do?

A. We held up action until the trial was disposed of. As indicated in our brief, your lordship, we treated the matter as sub judice and on the first day of the sitting of this Commission I heard expressed by yourself the feelings which I do subscribe to, as follows, and I quote your own remarks:

"I do not want the proceedings of
"this Commission to cut across,
"so to speak, that pending trial.
"I have made some enquiries as
"to when that trial will probably
"terminate, and perhaps one man's
"guess is as good as another's,
"but it will be a matter of a few
"days, in any event. I think
"it would be improper for me to
"proceed now to hear witnesses
"whose evidence might cast
"reflections that might operate

"adversely on persons elsewhere, and "subject to what counsel may suggest "to me, my view is the public "hearings of this Commission should "stand adjourned until the completion "of that trial."

That is about the way I felt in taking the policy of the Department which had been laid down prior to my having become Provincial Secretary.

Q. But I was dealing with one situation. You were dealing with another. What I was dealing with was evidence -- possible evidence before me that might result in an unfair trial of the accused. That, as I appreciate at the moment, is quite distinguishable from what your position was.

Let me try and make that plain: If your Department was proceeding with cancellation proceedings for a cause such as this, loss of original corporation powers, that would have nothing to do, surely, with whether or not the accused committed some criminal offence such as gambling on the premises. Would it?

A. Yes, it would.

Q. In what respect?

A. I think if you will take the

1 situation of proceedings which you mentioned,
2 where the cause is forfeiture of corporate
3 powers. If the accused has been charged
4 with illegal gaming under the Criminal Code
5 one of the defences which is open to him
6 is that the premises -- the place on which
7 this alleged illegal activity was continued
8 was the premises of an incorporated bona fide
9 social club. If, in the meantime, we held
10 a hearing and we come to a conclusion, the
11 Minister finds as a matter of fact, prior
12 to the case being disposed of, that there
13 was a forfeiture of corporate powers, then
14 it is conceivable the Crown counsel might,
15 when the defence of a bona fide incorporated
16 social club was advanced by the accused,
17 say, "That defence is not open to you, the
18 Provincial Secretary has already declared
19 that this club has forfeited its powers."
20 Q. I can see great difficulties,
21 and perhaps scandal, arising out of that.
22 Take any given club, call it the New Moon
23 Club. Your Department has proceeded to
24 cancel the charter on the ground that the
25 powers of that corporation had been
26 forfeited for non-user. While those
27 proceedings are pending some one is charged
28 with operating a gaming house on the
29 premises of the New Moon Club. You thought
30

you should hold up the cancellation proceedings pending that trial because the accused, as part of their defence, would rely upon the fact that this was a bona fide social club.

Now, let us assume that the defence succeeds on that ground and the charge is dismissed. Thirty days later you continue your cancellation proceedings on the grounds that the powers have been forfeited, and you find that they have been forfeited, and you cancel the charter.

Now, then, what is the result? The result, surely, must be this, that the accused escaped conviction on the ground that this was a bona fide social club in existence with corporate powers at the time of the alleged offence, when your subsequent investigation determined that it was not. Surely that would be a scandal.

A. My thoughts have only been directed towards this aspect in fairly recent times. This was the policy which had been laid down for some time.

Q. When I say that was a scandal, I am not using that as reflecting adversely on any one.

A. I appreciate that, my lord.

I bring to your attention this factor: There may be a loss of corporate powers by a

AA/4

bona fide social club. For example, the New Moon Club receives its letters patent; reputable citizens; amongst other objects, social objects; and they continue in a flurry of interest for two or three years. Then, perhaps the energetic president loses interest in it and the club takes no action -- no action for three years. It ceases to operate. Files no returns.

Someone, who is a member, then suggests, "Well, we had -- we used to have a pretty good club. We had met socially, our wives met, we had somewhere to go, we contributed to the community; let's start up again". They start up again. They could be a bona fide social club with none of the elements of gambling involved and, yet, they would be subject to cancellation because they had lost their corporate powers, not having operated during those -- during the period of two or three years. I have discussed it with -- in fairly recent times with members of the council in the Department and it is a moot point, whether the words "bona fide" include the aspect of forfeiture of powers, although the evidence itself brought out may overlap. It is a difficult situation because you have parallel proceedings, and I have gone into this to some degree, trying

to determine which authority should have, what I call, primary jurisdiction. I am one of those who have subscribed so strongly to the Courts and the rule of law that wherever a Court steps in, then I have adopted the policy of the Department of standing still until they have reached their conclusion. Now, whether that is a proper thing to do or not --

Q. Do you agree with me, a scandal could arise if an accused got off on the grounds that this was a bona fide social club still in existence with corporate powers and you holding later that it was not?

A. Yes, there would be a conflict of judgment and it may arouse questions as to who was right. Was the judge right or --

Q. No, it would not be a question of whether the judge was right or the jury was right. The judge acting at the trial, he takes the corporation as having still a corporate existence when, as a matter of fact, there are proceedings pending to determine that very question. Proceedings in which he has no jurisdiction. Have you debated that back and forth in your Department at all? When I say "debated" I mean, has it occurred to you that there might be what is referred to as a scandal?

A. Well, the matter has come up,

arising out of the Arlington situation and these three corporations, the Arlington and the Parthenon and the Atlas.

MR. MESTAY: Q. There is a fourth one, isn't there, the New Canadian?

A. Well, the New Canadian had been dealt with. But, at the beginning of this year --

Q. The same letter has been written saying they are going to hold up pending the appeal?

A. Yes. At the beginning of this hearing we had the Arlington, Parthenon and Atlas before the Department. In two of those instances we had commenced proceedings; Arlington on the basis of forfeiture and, then, it was brought to our attention charges were pending and we held up our proceedings. Then, there were convictions registered. In the meantime, the Atlas came into the picture and there was a conviction registered. So, now, we have three clubs in which convictions have been registered. The solicitors notified the Department they are now appealing those convictions.

When the Atlas came to my attention from the Deputy Provincial Secretary, notice of conviction was given, we commenced proceedings. An appeal was filed and we

wrote to Chief Mackey, saying, "We are holding up proceedings until the appeal is disposed of". Then, we received a report from Chief Mackey enclosing a report of Inspector Thurston, the senior man in charge of this --

THE COMMISSIONER: Q. District?

A. District, the whole of Metro. These matters we are dealing with. And he takes a very strong point of view, the fact that the conviction is under appeal should not prevent the Provincial Secretary from continuing his cancellation proceedings.

Q. Based on some other cause?

A. In his instance it was based on the conviction. No, he said there are other -- that his report shows there are other reasons.

Q. What reason?

A. Other convictions.

Q. Yes?

A. So, I took up the matter with -- We had a lengthy discussion with -- Mr. Cudney and I because we wanted to make sure that whatever action we were dealing with was in keeping with the concept of British justice. That is one of the factors we have had in our Department continually in the background. I thought to myself, "Well, if a conviction is being appealed it is something similar to where a charge has been laid and not disposed of.

Perhaps we should wait. But, maybe Inspector Thurston has a point." So, that is why I asked Mr. Cudney to get in touch with the Attorney General's Department to advise us whether we were within our rights in continuing cancellation proceedings on other grounds while a conviction was being appealed from. Mr. Silk gave his opinion that we were within our rights.

So, having received that opinion, Mr. Cudney then began to put the machinery in motion to continue the proceedings on the basis of other than the convictions.

Now, I do not know whether --

MR. ESTEY: Q. I wonder if I should interrupt you? What he really did, on the 25th of July he wrote to the Club and said if the Club ceased to operate he would continue. That is the question I am trying to get answered. We have four clubs in which the Department takes not an entirely consistent view.

A. The New Canadian had already been dealt with. The New Canadian Club we had --

Q. No, I interrupted you with regard to Atlas. The 25th of July, 1962, Mr. Cudney wrote advising the Club if they did not cease operations pending the appeal he

would proceed.

A. Yes.

Q. We have the Parthenon, the Arlington and the Atlas all in that category. The New Canadian had been through the mill.

A. There had been a conviction and the appeal had quashed the conviction.

Q. Now, the New Canadian, it was moving without authority?

A. Yes. After the appeal had been disposed of we instituted proceedings for another cause.

Q. If you are going to cancel for something unrelated to the conviction, why wait?

THE COMMISSIONER: He has given the best explanation he can.

A. I have given the reasoning of the Department.

MR. KENNY: All right.

Q. In the other case, whereyou are dealing with the parallel proceedings, with the same offence: In the case of the Arlington Club and in the case of the Parthenon Club, you have said to the suspect corporation, "If you operate we will continue." What authority have you to write that letter?

AA/3 A. The authority. Well, perhaps it was -- I do not know what the authority

was but I was going to take some action because I think the comparison is this -- or, the validity of this is that the date that, finally, Mr. Cudney and I received this -- came to the conclusion that we would take some steps to make sure that the club did not use the time period of either the trial or, in these three instances they were all identical, the three, the time for appeal, to continue operations. We sent the letter and, at the same time that Mr. Cudney was drafting the letter, having discussed it with me, that same afternoon I would imagine, the morality squad were making preparations to raid the Atlas Club. They did raid the Atlas Club -- our letter was in the mail while they were raiding the Atlas Club and, as a result of that second raid, there were other charges laid.

Now, this is a field in which there is no -- very little jurisprudence, and I think Mr. Cudney and I more or less were thinking these things out together, we were exploring new fields. I said to him, "Inspector Thurston has brought to our attention that they are continuing their activities. This may, as in some instances, the Bellevue case is an example, they can drag this out. I do not want to be in a position where

proceedings are held up in this office and a club is operating if it is within my power to stop them from operating until these matters are disposed of. Letus take that action." Whether I have that authority or not is not clear in my mind; whether I have the authority to say to them, "You stop carrying on or we will continue proceedings". What was clear in my mind: I had a legal opinion at that time, which was subsequently joined in by the senior cunsel of our Department, that we were within our rights to continue the proceedings.

THE COMMISSIONER: Not withstanding the pending appeals?

A. Notwithstanding the pending appeals.

Q. That would be my view.

A. My position being this: If somebody thought I did not have that authority they could apply to the Court to issue an injunction or take whatever proceedings against me, as Minister, to prevent me, if I did not have that right, pending the disposal of the appeal.

Q. There seems to be some inconsistency there, and I am not saying this critically. You were struggling with a new situation; I accept your statement. You start

your proceedings on the ground of forfeiture of powers. If the powers have been forfeited they have no right to continue. That is so, isn't it?

A. Hm-hmm.

Q. Yes. Then, there is a pending appeal following the conviction and you say, in substance, to them, "You have no right to continue so long as this appeal is pending." That, surely, is something quite different than your original position, in which you said, "You have no right to carry on at all". How does that appeal to you?

A. We have always treated the letters as being allegations; that is the position we have taken. The position in the letter which institutes cancellation proceedings is just an allegation on our part which has yet to be proved.

Q. That is right.

A. I hope I can make myself clear in fairly simple language, my lord. I take the position with the club that "If the Department in its sense of the concept of British justice is holding up proceedings which it has instituted, you should, in the meantime, discontinue your operations".

Q. I understand what you did.

A. I may say, this was a new problem

brought about by reason of the fact that -- It was not brought about by the Arlington or the Parthenon, it was brought about by the Atlas Club. The Atlas Club, we had instituted proceedings. As a matter of fact, they were started because Mr. Cudney brought to my attention or I brought to his attention a newspaper clipping. We wrote to Chief Mackay and he said, "Yes, there was a raid there and charges are pending". We got a report of the convictions and, then, we instituted our proceedings, based on the conviction. The solicitor then said, "Do not proceed on the basis of the conviction because we are appealing". We notified Chief Mackey we were holding up proceedings based on the conviction until the appeal had been disposed of.

Q. I know what happened.

A. Then, Inspector Thurston replied, saying, "Well, regardless of whether -- regardless of whether they are convicted or not there are other grounds". So, I looked at it and Mr. Cudney wrote back to Chief Mackey and said, "Regardless of how the appeal turns out we will hold a hearing to determine whether there are other grounds, but we still have not -- we still are holding up proceedings". In the meantime,

from my own knowledge, I am enquiring from him, "Are they operating, as a matter of fact?" Chief Mackey sends back the report in which Inspector Thurston again recommends there be cancellation and reports that they are continuing their activities. That is when I took up with Mr. Cudney and we were confronted with the Atlas Club, where there was a conviction, which was the basis of the initial letter, and an appeal from that conviction. That is when I said to Mr. Cudney we should get the opinion, because Chief Mackey, when we were enquiring why they were operating, I do not think was aware of the fact why I was enquiring, because I was getting this opinion from the Attorney General's Department. Mr. Cudney gave me the message that we were within our rights to continue, even if an appeal is pending.

AA/6

So, then, I said to Mr. Cudney, "Let us do that with the Atlas case because I can see the Atlas continuing its operations for a considerable period of time while various appeals take place in Court, quite properly", and the situation did not appeal to me. I said, "We will proceed -- we will tell them if they continue to operate we will continue to cancel". Having once determined that on the Atlas case, because we had two

similar situations in the Parthenon and the Arlington, which we were dealing with all the time, Mr. Cudney's letters referred to the Parthenon, but on this reason the action was going on simultaneously. We wrote these letters. When we obtained the police reports, and Mr. Estey has referred to the reports, most of these reports came as having been elicited from the Department to see what was going on. When the report came they were carrying on that is when I said to Mr. Cudney, whether I directed him or we discussed it -- if I had that authority to comply them to stop I was at least going to make the try to see and let somebody else decide whether I had authority or not.

Then, Mr. Cudney proceeded to write and set hearings in the three instances. If my recollection serves me properly the new proceedings were not going to be based on the convictions but on new material.

(Page 13520 follows)

MR/1/19'D

THE COMMISSIONER: I think I understand exactly what happened. What you say is merely repeating what the evidence is at the moment. Go ahead.

MR. ESTEY: I got a lot of mileage but did not get an answer. It was the Attorney-General's opinion you had authority to proceed with cancellation notwithstanding a pending appeal, or was it his opinion you must tell the club it must cease to operate pending an appeal? I think --- We will get the file. There is a summary in one of the ---

A. This is a memorandum from Mr. Cudney -- from Mr. Common -- it is July the 16th, 1962.

Q. Which file?

A. In the Parthenon Social Club.

"The above club was incorporated "by letters patent under the Ontario "Corporations Act. Recently persons "were convicted of keeping a common "gaming house on the club premises. "I advised that the charter would "be cancelled and then we received "a letter from the solicitors for "the club advising that the conviction "was being appealed. The appeal "has not as yet been disposed of."

And a memorandum from Mr. Cudney dated

July the 20th to me:

" Referring to our recent "conversation in further reference "to the above club I wrote to Mr. "W.M. Common, Q.C., Deputy Attorney-"General, a copy of which letter is "attached, relative to the club, "in the meantime carrying on its "undertaking until the appeal of "the convictions was disposed of. "Mr.Eric Silk, Q.C., telephoned me "this morning x in respect to my "letter and said he was of the view "that we would be within our rights "to apprise the club that the charter "will not be cancelled until the "appeal is disposed of, provided that "the club did not, in the meantime, "carry on its undertaking.

" There are also appeals pending "in respect to the Atlas Club and "the Arglington Club and I am also "advised that in the two latter "instances, they are carrying on their "undertaking. Accordingly, the "same applies to all three clubs."

THE COMMISSIONER: That does not deal with the situation I was discussing with you at all. And your proceedings are to cancel on

the basis of a conviction, and then the conviction is appealed, and I would agree with you completely that until the guilt or innocence of the accused has been disposed of you should not receive cancellation on the basis of the conviction as that conviction is being appealed, and maybe reversed and acquitted.

But what I was discussing with you was quite a different matter. When proceeding to cancel for forfeiture I don't see a reason to hold up those proceedings by reason of a conviction.

A. If I may add the facts, the Parthenon Club, the proceedings were instituted in March of that year and the letter to the club the beginning of the proceedings, the cancellation was going to be on illegal gaming and forfeiture. That is where we start. The conviction came in and it was appealed. The final action having obtained this opinion from Mr. Silk that they were still operating, Mr. Cudney wrote to the club setting a date for the hearing and our hearing will be based non-user and illegal gaming ---

Q. Which were the original grounds?

A. Plus three, that the corporation is continuing to operate contrary to my letter of July 25th, 1962. We take the position we are within our rights to consider

cancellation proceedings when there is an appeal which means we are being in the right when a charge is being ~~is~~ disposed of if we proceed not on the basis of convictions but other basis. That has arisen in the year 1962 because of the set of circumstances pertaining to these three particular clubs.

MR. MEREY: Q. Coming down to the Arlington Club. I want to know what happened after Mr. Cudney advised you on the 10th of September, 1962, that the police had reported the club still operating. What happened then?

A. The report came in August 28th, and there is a memorandum from Mr. Cudney to myself dated September 10th.

Q. That is right. That takes you back to February, 1962.

A. Yes. It includes --- Mr. Cudney then wrote to the club on the 25th of September.

THE COMMISSIONER: Never mind what he did then. I am thinking of another phase of it. Supposing you did proceed with a hearing for cancellation and cancelled the charter by reason of a conviction because your advice from Mr. Silk was you could do that. That is as you understood it. Now then, notwithstanding that the appeal was pending you could still proceed on the basis of conviction.

A. His letter did not ---

Q. That is the way you interpreted it?

A. No.

Q. That is the way I thought you did.

A. That we were in our rights to continue our proceedings on other grounds, if there was such. We have the experience, your lordship, in the New Canadian Club.

Q. I want to get the principle on which you function. I put the case where you are proceeding to cancel on the grounds of conviction. That is a simple case, and there is an appeal launched against the conviction. What is your present policy?

A. Not to continue the cancellation proceedings until the appeal has been disposed of.

Q. Thank you.

And the next. You are proceeding to cancel on two grounds, one for forfeiture of powers, and conviction. An appeal against the conviction is launched and still pending. What is your present policy?

A. If the club continues to operate we will continue with our proceedings to cancel on the basis of other than the conviction.

MR. ESTEY: Q. Yes Why is it conditional upon them continuing to operate?

BB/2

Isn't it in conflict with what you told his lordship a moment ago on the very same question?

A. I don't recall any conflict. Your lordship asked me what we were doing.

THE COMMISSIONER: I asked you what you did when proceeding to cancel on two grounds, forfeiture of powers and, (b), conviction in the case where there is an appeal against the conviction, and your present policy is to proceed with cancellation proceedings on the grounds of forfeiture?

A. Yes.

MR. KITEY: That is what I understood him to say. He said if they operate contrary to the edict under which they operate.

THE COMMISSIONER: Q. Is that right? Is your policy conditioned on whether or not they continue tp operate?

A. In those three instances.

Q. No. I want to get the policy regardless of those three cases.

A. Yes.

Q. So that, where you are proceeding to cancel on (a) forfeiture of powers and (b) conviction, an appeal is launched against the conviction and still pending, then you proceed with your cancellation proceedings on the first ground only provided that they

continue to operate. Is that right?

A. Yes.

Q. If they don't continue to operate, do you hold up the cancellation proceedings?

A. Yes, that would be the ---

MR. ESTEY: The next stage is a matter of argument.

THE COMMISSIONER: That is right.

MR. ESTEY: I will return to that with some emphasis later.

THE WITNESS: In these situations, three situations, we were not confronted with what we would have done in the three instances if they did not continue to operate. They continued to operate and we took the action.

MR. ESTEY: Q. We might be able to shorten this up, Mr. Yaremko. One thing I would like to ask you about. You will remember in the Queen City file, that is the next of the files, Queen City - Lakeview, there is a memorandum from Mr. Levine and also Mr. Cudney to you in which they say, particularly Mr. Levine, that the police have reported these clubs are interlocked and controlled by the same people. And he says that is the only ground the recommendation is made we cancel the charter. And you have written across the bottom "Cancel Lakeview". Why would you not cancel the three of them or hold

a hearing on all three? And get to the bottom? You ultimately did cancel.

A. In the Lakeview Club there was a conviction so, in discussing it with Mr. Lavine, I said go ahead and cancel Lakeview. I want further information on Ringside and Mr. Lavine wrote to Inspector Walker. That is the letter of February 10th.

Q. You have a report on the 18th of February?

A. March the 16th Mr. Lavine reported to me. The reason why the police wish the charters of the other two clubs to be cancelled is set out in the other two paragraphs of my letter of February the 10th.

Q. That is the one I am asking you questions about.

A. That is the one in which Mr. Lavine had summarized the report for me.

Q. And that is the one where he says the only grounds they have for that, it was controlled by the three people. Why not hold a hearing and see if that is correct and cancel them?

A. I am in the process of having Mr. Lavine get further information in order that I may come to that conclusion, which I subsequently did. On March the 16th Mr. Lavine reported to me. In the third paragraph of this

letter he referred, Mr. Estey -- the third paragraph refers to this offer that was made. This memorandum of March the 16th refers to another memorandum. Subsequent to this letter. Exactly when it was, my recollection is that I telephoned -- It seems to me I telephoned Chief McKay about these -- I may not have -- It seems to me I may have called him about this and had a discussion with him and when Mr. Cudney, when I had the opportunity of taking this up with Mr. Cudney, we then decided to ask for a return of the books by the 25th --

THE COMMISSIONER: You are just repeating what the evidence already has disclosed. I don't need that. Did this occur to you, when it became apparent that an offer had been made to surrender the charter of the Ringside Club and the Queen City Club in return for a withdrawal of the charge against the individuals Bluestein, Binder and Zeldon, did this not occur to you: (a) the offer would be performed, would have been made by the lawyer with the consent of the officers of Ringside and Queen City, and that being so, they were using that charter as barter to enable the individuals Binder and Zeldon and Bluestein to escape the charges that were pending against them. Surely it was not intended the charter of the club could be used as a barter?

A. That is why I asked him to write to Chief Mackey to get further particulars.

Q. If you had information it was being used as a charter, would that not be a good reason to cancel the charters?

A. Well, looking back, the reason I asked for further particulars I must have been thinking along those lines.

Q. The memorandum by Mr.Lavine has said he could see no reason for cancellation of the charters of Ringside and Queen City, and I suggest there was a very plain reason, namely that they were being used as barter.

A. That was Mr. Lavine's opinion.

Q. I know it was.

A. But we continued. I asked him to get further information and then I think I telephoned Chief Mackey who, on the basis of his experience, what we should do is get this special return. When going to take some action, we want to get as much information as possible, and we wrote the letter and they did not respond to the letter and the corporations were cancelled.

MR. ROTHY: Q. Now then, Mr. Yaremko, I would like to take you through some related questions and I hope your answers will be brief.

Have you any record of any prosecution of a Part III social club or its officers for

failure to file a return, Section 3, subsections 6 and 8 of The Corporations Act?

A. No.

Q. Have you any information on filing of false returns under either statute?

A. I have no such records.

Q. And no record of any prosecution of any person for filing a false affidavit of bona fides under Part III?

A. No.

Q. And no record of prosecution under Part III for failure to maintain the statutory records?

A. I have none such, no.

Q. Do you have any record of any cancellation of any social club under Part III for failure to file annual returns? Not special returns, annual returns?

A. I think there must be literally hundreds of those. I cannot give names.

Q. At page 91, the top of the page, in your brief, there is ---

A. What page?

Q. The very top part of page 91 of the brief. I was just wondering -- If you don't know -- How many are Part III complaints?

A. I have enquired of our records officer and I would say maybe several hundreds

each year would be Part III.

Q. Where you give notice and cancel?

A. Yes, the same as any other. We are in the process of catching up with these, and the last two years we have cancelled many corporations of which I would imagine the percentage are Part III corporations.

Q. Now, one further item. I would like you to turn to page 34 of your ~~xxxxx~~ brief and you will see that deals with the 24 clubs which were made available to you by Commission counsel who in turn received them from Mr. Wintermeyer's counsel. The first part, you deal with clubs on which you had reported prior to 30th June, and the last part you say as of June the 30th, 1961, no complaints received from any source. Now, in respect to the Arlington Club, without re-opening that great fund of information, that company is now subject to proceedings to cancel by reason of something which occurred six years before 1961. Cancellation for non-user on the file as of 1955. Is that correct?

A. It is based on a report received in 1962.

Q. A report which told you nothing that was not on your file with respect to forfeiture. You had forfeiture evidence on your file in 1955 and so advised the club. Is

that correct? You wrote the club in February, 1962 to that effect.

A. I am not familiar with 1955. I don't understand that.

Q. There is a letter dated 9th February, 1962. Would you just tell the Commissioner ---

A. What date?

Q. 9th of February, 1962.

A. A letter, Mr. Cudney to the club.

THE COMMISSIONER: Yes, there was a letter February 9th, 1962, forfeiture for non-user.

MR. ESTEY: Q. That was based on events arising when? Prior to 1954. This is the club where you got a great deal of information in 1955, but it all went back to the 30's and 40's.

A. January 20th, 1962. I think his report was based on the police report.

MR. WILSON: Page 34 relates to complaints by the Metropolitan Police. It has nothing to do with what may appear on the file.

THE COMMISSIONER: I know they do. I understand that.

MR. ESTEY: Mr. Cudney's evidence was that letter is based on forfeiture. The evidence is it arose in 1955.

THE COMMISSIONER: Your point being, the

charter could have been cancelled.

MR. ESTEY: In 1955.

Q. Do you agree with that, Mr. Yaremko? We can ---- Perhaps it is on the Atlas Club.

A. I see a letter of August the 10th, 1955, relating to the non-filing of annual returns from 1945 to 1955 inclusive.

Q. Atlas -- I don't think we need stop at that. We have seen that the Omega police files mention the Atlas Club.

A. Mr. Estey, I am not familiar with the full file. There had been failure to file annual returns.

THE COMMISSIONER: You are now speaking of the Arlington?

A. A failure tofile annual returns does not necessarily mean that there has been a forfeiture of power as a club can continue to operate and function but omit to file annual returns, not only social clubs but share capital corporations. We could have cancelled for failure to file, and that letter was the initial step in the proceedings to cancel, for failure to file.

THE COMMISSIONER: Mr. Estey's point is you could have taken that step back in 1955. That is your point?

MR. ESTEY: That is my point.

THE COMMISSIONER: For failure to file.

THE WITNESS: Yes.

MR. ESTEY: Q. And the Bathurst-Sheppard Social and Athletic Club. There was an adverse report by the police on that when the application was made for incorporation, was there not?

A. That, ofcourse, depends on the interpretation of adverse report, Mr. Estey. That is the one where, I think it is referred to in detail in the brief, but my recollection is that the Metro police had no objection provided the usual clauses were put in, and the Ontario Provincial Police --

Q. They were opposed to granting as there was apparent lack of interest in athletics?

A. Stating that they were reputable citizens.

Q. Page 34 would indicate the Bathurst-Sheppard Club was not the subject of a police complaint, and there was --

THE COMMISSIONER: It was not adverse. It was conditionally adverse.

MR. ESTEY: They said opposed to granting of letters patent.

THE COMMISSIONER: I know. The Minister would decide that. There was not a statement from the police of any facts.

MR. ESTEY: There is no question of that.

BR/4

But this brief it would seem to me is a rather illusory document in that it says no complaint received by Metro police or any other Force with regard to the following 13 clubs, but we know there is a complaint by the Ontario Provincial Police on the Sheppard file which says they are opposed to granting letters patent.

THE WITNESS: That is where they appear to be of good character and responsible persons.

MR. ESTEY: Q. That is what Metro said.

A. The O.P.P.

Q. And this one has been cancelled, the Bathurst?

A. Yes. The report, December 6th, 1961.

Q. After the cutoff date, and elsewhere in your brief you say no such club has been the subject of cancellation, but this came along after you wrote the brief?

A. That is right.

Q. No.7, the Yong Shan Social Club. There is an adverse report on that in 1948, if my file is correct.

THE COMMISSIONER: Is that in the evidence so far?

MR. ESTEY: It was just touched on.

THE COMMISSIONER: I don't remember that one. There is the Chan Social Club. I don't

think that has been analyzed.

MR. LEMAY: I have a note referred to in connection with another club in my discussion with Mr. Cudney on the Chinese Social clubs, and I have then read, on April 27th and May the 4th, 1948, there are rather strong reports against incorporating that club, so that it seems quite wrong to put in a public document that the Yong Shan Social Club -- You might bring the file in front of Mr. Yaremko.

A. There was a report in 1948.

THE COMMISSIONER: Q. Was it adverse?

A. I have just taken a glance. I have never seen it before. Yes. It was opposed to the granting.

THE COMMISSIONER: Q. On what grounds?

A. It says:

" Please be advised the records "have been checked and no records "regarding the applicants can be "found ---"

It is hard to summarize at a glance, but there is relation to a number of people who were found-ins, and convictions against a man who was going to be the manager.

MR. LEMAY: All right.

THE COMMISSIONER: All right, and then the next?

MR. LEMAY: I thought I had another one,

but I think I will drop it out.

THE WITNESS: I might say, Mr. Ratey, when we were confronted with the task of preparing a brief for you, we had no guidance as to the ramifications or scope you were going to go into, and when we wrote -- I think Mr. Gidney was in touch with Chief Mackey asking for all the complaints he had made inthe last five years. We thought five years would be quite extensive to go into and he sent us a list of ten years' complaints, which is Appendix K. In discussing the brief with Mr. Gudney, I noticed the 1st of July, 1950, was the start of a firm, allaround policy, with respect to clubs and our brief is prepared on the period -- from 1st July, 1950. We have given voluminous statistics and plus the fact we accepted Chief Mackey's Appendix K for the basis of our statements, and when these things were being analyzed and trying to get in some sort of order, that was the basis.

If we attempted to go back to the beginning of time, we would have had an impossible task on our hands.

MR. RATEY: Q. There are other clubs, on the subject of your brief, and perhaps not in accord with your files, before leaving page 34. The Atlas Club, there were five

adverse police reports prior to 1961. I think your file bears that out?

A. I know there were three or four after 1961, but most of which came as a result of our ---

Q. 1953, 1954, 1955, 1962, and that one is listed on page 34 as being a club which no one has complained about. It seems to me that must be wholly erroneous.

A. I took the matter up when we were preparing the brief, what we used, we had to use some sort of a basis. It was impossible to go through literally thousands of files and we used as a basis Chief Mackay's Appendix K.

Q. I just wondered about that. That is the basis for page 34. You say your files don't reveal that. You say Appendix K does not?

A. That is right.

Q. And on page 69 you say with regard to the Chinese Business Men's Cultural Society, page 69, the last paragraph says that no adverse report received by the Department with respect to this corporation from the police or anyone else. Now, without taking the time of the Commission to go through that file, I think a quick reference will show a recommendation that the charter be

cancelled on 2nd June, 1959, and there are other police reports on that file which are not favourable.

A. I was looking at the file -- What was your ---

Q. The note I have is that the 2nd of June, 1959, there is a report in which ---

A. That is the report on application for incorporation which we have gone into, Mr. Batey.

Q. It says the existing club's charter be cancelled. Do you see that? I don't know what the context is.

A. This was incorporated 8th July, 1959.

Q. I see. What does that refer to?

A. The report you refer to is June the 8th, 1959, referred to in the brief on page 60. I have no objection provided that the causes are put in. The Ontario Provincial Police report is dated 12th June. These are reports on the application for incorporation.

Q. All right. And your explanation is this paragraph read in context means nothing since incorporation was adverse?

A. That is right. There was nothing in existence at the time the report was made.

Q. The existing club's charter be

cancelled -- That might refer to two clubs. Now, just two more things. This arises out of observation by Commission counsel, and I would like you to clear the public record on this point. When the request was first made to examine your secret files, did you not -- I am sure you will agree you did -- insist that the search be confined within some reasonable limits, and that a list of files we desired be given us and it was done the following morning, and we were given these files. Is that correct?

A. My recollection of that conversation, I indicated to his lordship that I was prepared to have every file which I dealt with since my term of office, the complete files put into the record in the nature of an exhibit, and then I ~~[illegible]~~ assumed and indicated to his lordship that his lordship could do the same with all the files of the Department that we had dealt with, not only excerpts but the whole file. That was a task which was physically impossible.

Q. It was a safe offer?

A. If his lordship had taken me up I would have. And the proposition was put that you would select a list of clubs which you would want access to. You could have asked for any club, and as a matter of fact

there were some 113, and the observation I made to the Commission counsel at that time that I was concerned that there not be a picking and choosing. I thought, perhaps, the best way to do ~~xxx~~ would be to file the whole file in those instances.

Q. If I might ask you one question and see if you can answer this succinctly, whose idea was it that there be a list of as few files as possible, your idea or my idea?

A. ~~It was~~ You had the list when it was discussed.

Q. Who suggested that it be tailored down? Did you suggest that?

A. No, there was no limitation on my part. There was no file which should not go in. The list was asked for to facilitate what we did know of the files you wanted to see, but the list ---

THE COMMISSIONER: Let us not make a speech. I am interested in this. Are you suggesting there were files you did not have an opportunity of seeing?

MR. BETTY: No, thanks to Mr. Cudney and Mr. MacCormack, the examination went off much easier than with the Minister to get the ---

THE COMMISSIONER: I don't get the suggestion.

Q. There was a flat statement we only wanted to see 119 and only used 83 and the 1219, minus 119, are not the subject of complaint at all and must be considered to be found to be clear. All I am saying is there was a great deal of discussion in which we asked to give a list and keep it small and see what it is and not going to waste time reading all these files and so on, and the work we did was confined to 119 and we have no idea what was on the others.

MR. WILSON: Now, Mr.Commissioner ---

THE COMMISSIONER: Just a moment. I anticipated the discussion between yourself, Commission counsel and Mr. Yaremko, and I said you were entitled to see and I direct you to see any files you want to look at. We got that abundantly clear.

MR. ESTEY: That is clear.

THE COMMISSIONER: And so far as I was concerned you would have access to all the files if you wanted it. There is no equivocation about that. That is clear, concise and definite, and you said you would reduce your demands to a certain number.

MR. ESTEY: Yes. This is my only point your lordship is now discussing.

THE COMMISSIONER: And I said that is fine if that is the extent of the inquiry you

want to make, go ahead and make it, and I instructed Mr. Yaremko to see to it those files were made available.

MR. ESTEY: The only reason it is raised is a comment by Commission counsel who, I would think, have investigated in the same manner we did, that we only used 33 files out of 119, which I wanted to say two things about and I will be finished.

One is we laid out 119 before we started the search, and the second thing the fact we limited our examination in public here was done for efficiency and not because the other files were clear. As your lordship does not want any unsatisfactory connotation on what has gone on before, neither do we. Thanks to your lordship, we did get into the files and were able to lay out the information to this Royal Commission.

THE WITNESS: After Mr. Estey submitted his list, Mr. Lawlor accepted his list what he wanted to see and Mr. Lawlor asked for additional clubs not on the list and it was provided.

MR. ESTEY: Q. This brief, No.253, is dated 19th March, I think, 1962.

A. Yes.

Q. And the amount of labour that has gone into that, that was not prepared for

some months prior to that time?

A. Yes, it was.

Q. In the course of that preparation you became aware of the fact that the Chinese clubs had had their charters altered by the reduction of the two clauses provided by Regulation 61. That would be some time between November 1951 and March 1952. My question is, have those letters patent been reinstated to today?

A. No action with respect to them has been taken.

THE COMMISSIONER: Have you some questions?

MR. LAWLOR: I have, but I won't be long.

---Short recess.

THE COMMISSIONER: How long will you be, Mr. Lawlor?

MR. LAWLOR: I will not be too long, but I think I will be more than five o'clock. I wish to discuss the Bellevue Social Club. It is No.42.

MR. WILSON: It is in K at page 10 and L at page 1.

THE WITNESS: Which club?

MR. WILSON: Bellevue Social Club.

EXAMINED BY MR. LAWLOR:

MR. LAWLOR: This club has three or four features leading into the type of arguments I have in mind. It is the last of the clubs which are still outstanding. Cancellation proceedings were started at a much later time ---

THE COMMISSIONER: Ask whatever you want.

MR. LAWLOR: Q.You have the Bellevue Bridge and Social Club in front of you?

A. I have not.

Q. My lord, just to fill in, the club was incorporated the 18th of October, 1938. There was no objection, great objection, from either. The returns were filed on time except that in 1952 the returns for 1950, 1951 and 1952 were all filed at the same time. That might be some indication of Mr. Batey's amber light. I don't consider it too serious.

Then, coming to 1959, would you refer to a letter from Chief Mackay to Mr. Bowman, dated the 25th of September, 1959.

A. Yes, I have that report before me.

Q. It is a short letter. Could you read it?

A. "In the month of July, in "your absence, I submitted a report

"to Mr. Elliott Pepper of your
"Department regarding the Bellevue
"Bridge and Social Club, located
"at 431 Spadina Avenue, Toronto.
" Mr. Pepper stated that on
"your return he would acquaint you
"with the facts of the report. At
"the time I spoke to Mr. Pepper I
"suggested that it was my opinion
"that there was sufficient evidence
"for the Provincial Secretary to
"cancel the charter held by this
"club. Information has been
"brought to my attention recently
"that Americans for large organizations
"in the United States have moved
"into Toronto and that they are going
"to take over the so-called chartered
"clubs. In view of this, I think
"the report I submitted to Mr.
"Pepper should be given serious
"consideration."

Q. Would you return to the report submitted to Mr. Pepper? It mentions the incorporation at the beginning, and then it goes on to say that the proprietor of the club and others were arrested and charged with being found-ins. Is that correct?

A. In 1947?

Q. That is right.

THE COMMISSIONER: Is it a long report?

MR. LAWLOR: It is fairly long.

THE COMMISSIONER: We can have it put in as a special exhibit. No.297.

---EXHIBIT NO. 297: Report, 1947.

MR. LAWLOR: My question is, on the basis of that paragraph, was that conviction or the matter of 31 members being arrested, these charges were subsequently dismissed, but did the police ever tell you about this situation so far as your file discloses?

THE COMMISSIONER: What situation?

MR. LAWLOR: The situation where the president of the club and 31 found-ins were arrested in 1947, my lord, a number of years after the incorporation, and I am asking if there was any police complaint arising out of that.

A. Not to my knowledge. I haven't, of course, gone through the file recently.

Q. I have been through the file and see no reference.

THE COMMISSIONER: All right. Why ask him if there is no reference?

MR. LAWLOR: I am not giving evidence, strictly speaking. I was just trying to shorten it up by making that statement. All

right.

Q. Then, going further into that report, the records show a number of people are set out here, and in the middle of page 2 ---

THE COMMISSIONER: Excuse me. How did Mackey's letter to Mr. Bowman get to the Provincial Secretary's file?

MR. LAWLOR: A memorandum from Mr. Bowman to Mr. Cudney, 16th October, 1959.

THE WITNESS: "I attach hereto a "confidential memorandum from the "Chief Constable of Metropolitan "Toronto who seeks to have this "charter cancelled. I agree with "the Chief Constable that there can "be little doubt that this club operates "a betting house and it would be "desirable to close it up if "possible. Would you be good "enough to advise if the grounds "advanced are sufficient for this "purpose?"

MR. LAWLOR: Q. Before we go back to the report you can read a memorandum from Mr. Max Margolian to Mr. Cudney on that point.

A. This is an undated memorandum.

" With respect to the request

"of the police that the charter
"of this club be cancelled, it
"would appear that there is
"ample evidence to justify the
"cancellation of the charter.
" It is suggested, however,
"that the club be given an
"opportunity if it so desires to
"appear at a hearing and make
"whatever representations it ~~dim~~
"desires in opposition.
" It should also be noted that
"recently an action was taken on
"behalf of the club against certain
"police officers wherein it was
"alleged that the police had
"installed secretly certain
"recording equipment, and I believe
"that there was also an action
"taken for an injunction to restrain
"the continual visits to this club.
"If these matters have not yet been
"finalized by a judicial decision,
"it is submitted that the Depart-
"ment should not proceed in the
"matter until the Court has given
"a final decision."

MS/T

Q. Then, a letter of December 10th, 1959, which you are looking at, a memorandum from Cudney to the Honourable Mackinnon Phillips?

A. No, from Mr. Phillips to Mr. Cudney.

---(Witness reads to " . . . our present policy".)

Q. And what is the next?

A. A letter from Mr. Cudney, December 10th, to the Bellevue Club.

"It has been brought to our "attention that evidence is available "that activities are being carried on "in the premises of your club which "constitutes a carrying on of a "common gaming house. We are unable "to overlook this evidence and I "would advise that on December 23rd, "1959, an order will be made under "Section 325(1) of the Corporations "Act, 1953, cancelling the letters "patent of your club for cause. "If you have representations to "make in respect of this cancellation, "would you please let me know."

Q. What happened with respect to that letter?

A. There is a seven page letter from Mr. Malcolm Robb, solicitor for the club,

I believe, to Mr. Cudney enclosing among other things, a copy of a letter he wrote Chief Mackey, October 23rd, and enclosing a notice of motion by the Bellevue Bridge and Social Club and certain named individuals, asking for, I believe, an injunction.

Q. So there were injunction proceedings pending when Mr. Malcolm Robb was solicitor of the club?

THE COMMISSIONER: Any other matter there that is pending?

MR. LAMLEY: If you look at Mr. Frank Moore's memorandum to Mr. Cudney. I think first of all -- do you see any mention that there are conspiracy charges laid on the 24th of April?

A. May 15th, 1961 ---

THE COMMISSIONER: What is it?

A. A letter from Mr. Frank Moore to Mr. Cudney and respecting the Bellevue Bridge and Social Club, and he says:

"You will note that many of the "members of this club have now been "charged with conspiracy. The charges "were laid on 24th April, 1961, and "the police now advise us that the "club closed its doors two days "afterwards, on April 26th. We "anticipate a renewal of the civil

"action for the purpose of obtaining
"information on behalf of the
"gamblers."

My recollection is that when Mr. Cudney returned and we were reviewing all the files in the Department he brought this one to my attention including the fact, I believe, he had a number of telephone calls with Mr. Moore, if I may summarize, to see if the action could be expedited, and if not proceeded with, a motion should be made for dismissal of the action for want of prosecution.

THE COMMISSIONER: What action? A motion for an injunction?

MR. LAWLOR: Yes, my lord, it arose out of trespass. The charges were laid on a trespass situation and substantially it is a motion for an injunction. Here is the motion here.

(Page 13555 follows)

cc/GMS/1

A. Yes. I am just trying to -- there was a -- a trial. There was going to be a trial.

THE COMMISSIONER: Of an action between whom?

A. Between the Bellevue Bridge and Social Club, and Harry Long, George Geoff, Jack Taylor, and Frederick Freeman.

MR. LAWLOR: And they are all members of the Metropolitan Police Force?

A. Yes, and this was what I read. Itis not a motion. It is a notice of motion for an injunction, an interim injunction until the trial of the action. Well, then, Mr.Cudney wanted to get, because we -- we here again tried to get, as we always do -- the matter being sub judice, and I say that I believe that Mr.Cudney made a -- made more than an honest attempt to get some -- get this action disposed of, so that we could proceed, and he made several telephone calls in that respect.

THE COMMISSIONER: Well, all right.

A. And then we discovered the club was no longer operating, and there wasn't any urgency.

MR. LAWLOR: You just read the covering letter, the covering letter from Mr. Frank Moore, the solicitor for Metropolitan Toronto,

until the

to Mr. Cudney, and then he enclosed the memorandum dated May 12th, 1961, therein, did he not?

A. Yes, I have referred to that.

Q. Now, could you read the -- could you read that for us? It starts with:

"Something of the history of this "Club is set out in the attached police "report dated 22nd June 1959 and "which, I believe, has been forwarded "to the Provincial Secretary."

I don't want to go into the report yet, I want to speak of that memorandum, Mr. Yaremko.

THE COMMISSIONER: A memorandum dated what?

MR. LAWLOR: The 12th of May, 1961.

Q. Now, would you start reading?

THE COMMISSIONER: From whom?

MR. LAWLOR: The second paragraph.

A. He refers ---

THE COMMISSIONER: From whom?

A. --- to Mr. -- from Edward Oakes, who is a -- evidently in the -- in the office of Mr. Moore, to Mr. Moore, and Mr. Moore included -- sent a copy of it on to Mr. Cudney, and he refers to the -- he says:

"Something of the history of "this Club is set out in the attached "police report dated 22nd June 1959 . . . "

which had been forwarded to the Department on the 25th of September, 1959.

THE COMMISSIONER: Yes.

MR. LAWLOR: Yes, now, Mr. Yaremko, if you would start with the second paragraph, please?

A. "The police have, for a long time, "believed that the Club is the 'front "end' for large scale illegal gambling "operations. A person wishing to "place a bet contacts the 'front end' - "usually by telephone - and places "his bet. A temporary record of the "bet is made at the 'front end' - in "the case of the Bellevue Club such "record consists of writing the "particulars of the bet in pencil "on an arborite counter top - and "those particulars are then telephoned "to a place known as the 'back end', "where they are recorded in permanent "form. The temporary record at the "front end is then destroyed - in the "case of the Bellevue Club this is "accomplished by wiping the counter "top clean with a damp sponge which "is always kept handy at the counter."

Q. Then forget the other paragraph. Well, no, continue. It is two pages, but I

Can't think it is too long, my lord.

A. "In the Club there are several "telephones as well as a ticker tape "machine which brings in sport results "from centres in Canada and the United States. The Club is "frequented by known gamblers and "criminals among them Fred Gabourie, "Max Silver, Jack Weaver and Harry "Hisen who are believed to be among "the principals of the Club.

"In gambling house cases the "evidence is usually gained as the "result of a series of observations "made over a long period of time. "The police therefore began to make "frequent visits to the Club armed "with search warrants. The type "of thing they found is set out in "the attached report. The Club "commenced an action against certain "members of the force for an "injunction restraining the "Defendants from trespassing on "the Plaintiff's premises and "committing acts of trespass on the "Plaintiff's members and from "annoying and harassing the members. "This has reference to the actions

"of the police in visiting the Club and
"in searching the persons found on the
"premises. The police believe that
"the action was commenced to hamper
"their observations.

"In the Spring of 1961 the
"police arrested one Alec Robinson
"and Hugh O'Gara on a charge of
"recording and registering bets.
"The police believe that Robinson and
"O'Gara were operating the 'back end'
"for the Bellevue Club. On the 24th
"April 1961 Robinson and O'Gara were
"convicted and sentenced to jail for
"three months plus a fine of $3,000
"or four months additional
"imprisonment in lieu of payment.
"As indicated the police believe
"that O'Gara and Robinson were
"linked with the Bellevue Club.
"Therefore on the same day that the
"conviction was made charges were
"laid against the following 10 persons
"whom the police believe to be the
"principals in the Bellevue Club:
"Frederick Gabourie, Jack Weaver,
"Harry Kizen, Arthur Larter, Alec
"Robinson, Percy Goldenberg, Max
"Silver, Ben Kuflowitz, Hugh O'Gara

"and Timothy Buckley.

"The charge was 'that they did "in the years 1956, 1957, 1958, 1959, 1960 "and 1961, at the Municipality of "Metropolitan Toronto in the County "of York and elsewhere both within "and without the Province of Ontario "did conspire, the one with the "other, and with divers other persons "presently unknown to commit "indictable offences namely to keep "common betting houses and to engage "in book making and to engage in "the business or occupation of betting "and to record or register bets at "the said Municipality of Metropolitan "Toronto during the years aforesaid.'

"As indicated these charges were "laid on the 24th April, 1961 and the "police advised that on the 26th "April the Club closed its doors "and has remained closed since that "time.

"The police believe that from "here on any civil action will be used "as a method of attempting to extract "information with respect to the "pending charge but this is something "we will be able to handle after it

"arises."

Q. Now, Mr. Yaremko, there are two actions pending at the present time. Is there not a hearing being held by the Department in this matter?

THE COMMISSIONER: At the present time? You mean now?

MR. LAWLOR: Now, as far as I know.

A. Yes. This is referred to in the brief, the conspiracy case, and I recall there were nine men charged with conspiracy, and there was a preliminary hearing, and the Magistrate I think committed, or sent the case on for trial in respect to five, and dismissed with respect to four.

THE COMMISSIONER: Now, what is your question?

MR. LAWLOR: Well, this is -- is this another instance, Mr. Yaremko, of appeal proceedings -- well, let me put it to you this way: These proceedings that are taken, these are purely collateral to any issue you may have with this club directly, is that not correct?

A. I don't know what you mean by collateral.

Q. I am speaking of proceedings taken by a solicitor against the police force for trespass, that has nothing really

directly to do with your Department, is that correct?

A. Well, the -- the relevance is this, that the action is being carried on in the name of the Department. There was a social club, and if we were to cancel the letters patent, then that would be a -- that would wipe out the plaintiff. There would be no -- there would be no plaintiff to carry on the action.

Q. No, but at the time the trespass arose nevertheless there was an existing plaintiff, is that true?

A. Well, I think it was the belief of the Department that if we were to wipe out the plaintiff by our action that may not have been the end of it. Incidentally, it may be pertinent that on June 14th, 1961, after receipt of this -- after receipt of this memorandum from Mr. Moore, Mr. Cudney having discussed the matter with me, wrote a letter to Chief Mackey reviewing -- reviewing the matter, and then he concludes:

"I have taken up this matter "and, in view of the pending "conspiracy charges, it is thought "that no further action should be "taken towards the cancellation of "the charter or to have a hearing

"if the club so requests until the "conspiracy charges are disposed of."

Q. Well, now, the question gets down to this, then, that in 1949 Mr. Cudney sent a letter to this club saying that hearings would be held with formidable evidence, I suppose in a police report, and since that time, because civil and criminal proceedings had been initiated, nothing whatsoever has been done to forward those hearings, and that is the way it stands to-day, isn't that correct?

A. Yes.

Q. You are awaiting the outcome of those proceedings?

A. Yes.

Q. And it is not in this case as though a conviction had been filed, and it was under appeal, the matters now before the Courts, either civil or criminal, are matters that your Department is not directly concerned with at all?

A. Not concerned, but any action of ours would be -- would be -- have a very significant effect in the -- in the, at least the civil action, and perhaps the conspiracy charge.

Q. Very well. That finishes that club as far as I am concerned. The next is

argument. I would like to know, Mr. Yaremko, since you became Provincial Secretary on May 26, 1960, if there were not a considerable number of new clubs, social clubs been incorporated?

A. Well, Mr. Lawlor, I believe you have what is filed as an exhibit, a statement of the total number of clubs filed -- incorporated during my term of office. If I may just take a moment to refer to that.

THE COMMISSIONER: Now, what is the exhibit number?

MR. LAWLOR: Exhibit -- it was subsequent to Exhibit 271, my lord.

MR. WILSON: It was added to Exhibit 271. I think you put it in your brief, Mr. Commissioner, I am not sure.

THE COMMISSIONER: Page 9 of Exhibit 253.

MR. WILSON: Yes, I think it was. I filed it, as a matter of fact.

MR. LAWLOR: And in that case are they all coming into your hands now directly? Do you peruse every application personally?

A. What happens is that -- yes. Presently we -- we have evolved, Mr. Cudney and I are continuously trying to evolve new procedures, and in the course of a day a tremendous number of -- a very substantial number of matters will come before me for

cc/2

signature, so far as the share capital and non-share capital. In the case of a club, Mr. Cudney submits the application, the whole file, so that I am able to -- able to peruse the file, to read the report, all the reports, if I deem it necessary.

Q. I am interested in the present policy of the Department. As it stands at the moment, if a known gambler is one of the applicants, would you grant the charter at the present time?

A. I think not but that is -- I don't know what you mean by "known gambler".

Q. On the basis of the police report?

A. Somebody reputed to be, or convicted?

Q. Well, you can divide it from each. That is all right.

A. I may say this, that in the-- I would have to go over all the files. We have refused -- we have refused where the police reports have indicated to us gambling convictions, or such relationships. There have been instances where there have been other convictions, and not related to gambling, and we have taken the matter up, and the parties have withdrawn the name of that person, and submitted the name of another.

Q. Yes?

A. But I would have to -- you would have to review the 322 granted by me.

THE COMMISSIONER: No, no, no, no, you wouldn't at all.

A. I ---

Q. The question is, as of to-day if a known gambler shouldbe one of the applicants for incorporation, would you or would you not grant the charter?

A. I think not.

Q. You think you would not. That answers the question.

MR. LAWLOR: If you were asked to delete the paraphernalia clause from the charter as it stands to-day, what would your position be?

A. I couldn't do it by law.

Q. Very well. If you received a private complaint to-day about an operating club, what would be your position? By private I mean a member of the general public, and not the police. What would your position on that be?

A. If it was other than an anonymous type of thing?

Q. Yes.

A. We would look into the matter.

Q. You mean you would refer it to the police, possibly?

A. Either to the police, or use our own. If it is one of those where we can check directly, we would check directly.

Q. You mean you would call them into your office, this person who complained?

A. I haven't had that problem as yet, to my knowledge.

Q. I see. You are not quite sure what you would do in the light of a private complaint?

A. Well, I would think on the basis of ---

THE COMMISSIONER: You would have it investigated, and see?

A. Yes.

Q. But whether by the police or your own Department would depend ---

A. On the circumstances of the case.

Q. --- on many circumstances.

MR. LAWLOR: Supposing you received a complaint, either from the police or any one else, subsequent to incorporation, that the premises were being frequented by known gamblers. What would your position on that be?

A. If only that, and no other?

Q. Nothing else.

A. Nothing else. Well, for me to look into the future, and try to decide what I

would do on such an instance ----

THE COMMISSIONER: I suppose there might be so many varying circumstances, Mr. Lawlor, that it is hardly a fair question.

MR. LAWLOR: Yes. I tried to keep it on one ground alone.

THE COMMISSIONER: Oh, I know, but your question is if it were known to be frequented by known gamblers, what would you do?

MR. LAWLOR: Well, all right. Let me put it this way ---

THE COMMISSIONER: Supposing you had a social club with a membership of three hundred, and there were ten gamblers in frequent attendance. That would be one set of circumstances. The circumstances would vary, I suppose.

MR. LAWLOR: But the police are the ones that are doing the reporting. I would have thought there would be other reasons for doing so.

THE COMMISSIONER: No, no. It comes to his attention by the police or anybody else, you said.

MR. LAWLOR: Yes. All right. Well, all right. It may be an unfair question. Suppose you get a report come in that it was not only frequented by known gamblers, but that there was some evidence of illegal -- or suspicion

of illegal gambling activity going on. What would your position be?

THE COMMISSIONER: You mean what would they do about it?

MR. LAWLOR: Yes. What would you do about it? I want to know when they will call a hearing.

A. Well, it all depends again as to the amount of material there is in the report. Now, I refer to the Somerset, in which police reports were filed, my lord. There was evidence there that there were -- the premises were frequented by known gamblers. There was just the -- the shade of -- of evidence that something was taking place because of a conversation, "I will lay you twenty to one", whatever that means, but it had some significance to the police officer who overheard that conversation, but there wasn't enough in that particular Somerset report which I discussed with Chief Mackey for me to have decided that was a game. Under that -- under the list of cases which we have set out on page 30 where there is strong evidence of illegal gaming on the club premises. Now, Chief Mackey since that time has had the matter under surveillance. The report is much more thorough. I have only glanced at it. I have not considered it.

I am getting further information. There is evidence of frequenting by gamblers. Evidence as to perhaps a game, and I would probably consider that. It matters as to the weight of evidence which is before me.

THE COMMISSIONER: We will adjourn until to-morrow morning at 10.00 o'clock.

---Whereupon the hearing adjourned at 4.50 p.m. until 10.00 a.m., Tuesday, October 23, 1962.

-- FILE COPY --

VOLUME NO. 68

ROYAL COMMISSION

ON CRIME

IN ONTARIO

DAILY TRANSCRIPT
OF PROCEEDINGS

Date Tuesday, Oct. 23/62.

pp 13571 - 13626.

Supreme Court Reporters
145 Yonge St.
Toronto

E R R A T A

Vol.	Page	Line	
59	11943	30	For "either" read "neither"
59	11944	1	For "or" read "nor"
59	11977	22	For "say" read "see"
59	12010	9	For "Rennicks" read "Kerrick"
59	12018	3	For "1960" read "1961"
60	12052	15	For "wasn't" read "was"
60	12073	18	For "Town" read "Ontario Provincial"
60	12093	10	For "I discussed" read "I didn't discuss"
60	12093	21	For "at" read "after"
60	12114	2	For "unless" read "until"
60	12126	18	For "ever junior" read "ever as junior"

VOLUME 68

INDEX OF WITNESSES

A/PAL/1

TUESDAY, OCTOBER 23, 1962

---On resuming at 10.15 o'clock a.m.

JOHN YAREMKO, resumed,

EXAMINATION BY MR. LAWLOR CONT'D:

Q. Mr. Yaremko, I have recently been rather curious about an initial question here this morning. Now, in your opinion, were the criminal elements in this province able to obtain these social club charters? How did they know about them?

A. I imagine their knowledge would be the same as that of any other citizen. The laws pertaining to the Corporations Act are known to a great number of people and anybody interested in criminal activities might inform themselves of provisions of the Criminal Code or have provisions of the Criminal Code brought to his attention.

Q. That is not the point I am making. I am talking of these long dormant charters issued twenty, thirty years ago which they have been able to root out and use for their own purposes. Have you any theory as to how they found out the specific clubs?

A. Well, I have one idea which came to me as a result of the Humber Bay

incident, which is the most recent. My mind had not really been directed to this because I was dealing with them as they came along. It came to me that, in part of our procedure in cancellation, we notified the last directors of record, and we also published in the Ontario Gazette notice of intention to cancel for failure to file. That is required under the Act. It may be that somebody was astute enough to go through that list and see that we proposed to cancel some charter for failure to file and, then, used some methods I do not know in order to obtain the relevant information. They can go to the Public Search Office and get all the history of the charter to that date and, then, continue further on. That is pure speculation on my part. It is a theory -- because the same question has been in my mind for a considerable period of time, and especially highlighted by that particular incident.

Q. You think perhaps the publication in the Ontario Gazette may explain their source of information?

A. Yes, because in the Humber Bay the notice of publication (sic) I believe was in the early part of January, 1960, and then the returns were filed shortly thereafter.

That is pure speculation on my part, my lord.

THE COMMISSIONER: Q. There is no register in your Department devoted exclusively to social clubs?

A. No, all corporations are in one complete set.

MR. LAWLOR: Q. We were talking of the Bellevue Club the other day and there are two matters which remain outstanding in my mind with respect to that.

If you could let Mr. Yaremko have the report -- It is Exhibit 297. I have a photostatic copy here this morning.

Q. Would you just turn to page 8, the last page on that. That report is unsigned. Isn't that correct? It appears to be E.R.W., who I take to be Inspector Walker of the Metropolitan Toronto --

THE COMMISSIONER: That report is September 27.

MR. LAWLOR: That is the report dated June 22, 1959, my lord, to James P. Mackey.

THE COMMISSIONER: My note says September.

MR. LAWLOR: The one I am interested in is this one (indicating).

THE COMMISSIONER: June 22.

Is there one September 22?

MR. LAWLOR: I have nothing with reference

to that specific date.

A. September the 25th, my lord, is the date of the letter from Mr. Mackey to -- Chief Mackey to Mr. Bowman.

THE COMMISSIONER: Q. September what?

A. September 25, 1959. He refers to the fact that in the month of July he submitted a report to Mr. Elliott Pepper, who was within Mr. Bowman's Department, and I would imagine the report of June the 22nd, 1959, is the report being referred to.

MR. LAMLOR: Q. Would you read the footnote that is added to that report, which is otherwise typed? It is added in ink.

A. My lord, I have difficulty in reading this particular handwriting.

Q. If I read it - it is easier to read here - see if it is correct:

"They want to close it without going
"to police. Appalachian mob has met
"twice to take over this place &
"gambling. They were in Northern Ont.
"last year & names can be obtained
"from R.C.M.P."

Does that sound correct?

A. That appears to be written on the original, my lord.

Q. I just thought it would be of interest to your lordship, that specific footnote.

MR. WILSON: It would be very interesting to know who wrote it.

MR. LAWLOR: If we had Inspector Walker in the stand we could find out.

Q. We had the case in the Bellevue --

THE COMMISSIONER: What was the date of the Goose Bay hunting expedition?

MR. LAWLOR: I believe that was October of 1958.

THE COMMISSIONER: That is what it has reference to, no doubt.

MR. LAWLOR: Q. Mr. Yaremko, with the Bellevue Club we had a distinctive situation, one we had not had before, where civil proceedings were pending. You say that, largely because of those proceedings, you have not proceeded to cancel -- to have a hearing and cancel the charter. Coming to your present position of your Department does that mean in cases where civil proceedings are pending in any instance that -- in connection with a social club that you do not or will not cancel or have a hearing, irrespective of the grounds therefor, while such proceedings are pending?

THE COMMISSIONER: Well, that is hardly --

Q. This is the only instance in which the cancellation proceedings were held

up by a civil action?

A. Yes, my lord.

Q. I suppose if some other case developed, a civil action was pending, you would have to assess it on its merits?

A. Yes, my lord.

Q. The question is too broad and too indefinite, Mr. Lawlor.

MR. LAWLOR: Without going into argument, my lord, I would point out: If this were the case it would be a wise plan for those persons to start fictitious civil proceedings in order to prolong the life of their club.

THE COMMISSIONER: They will resort to any strategy they think will benefit them.

MR. LAWLOR: I think that has been proven, too.

Q. Yesterday I was involved in questions which his lordship felt were perhaps unfair because of, perhaps, again, the broadness and the way they were put, touching grounds at the present time for calling hearings with respect to various types of activities, and I tried to give some hypothetical cases. Returning to that particular type of question: In the case of convictions on the premises. If a narcotic conviction were on the premises, would that be grounds, in your opinion, to cancel the charter?

A. It would depend on the nature of the report given by the police. If in assessing the police report the Minister, and I speak for myself, came to the conclusion that in some way the club either knew or should have known, or condoned the action, my present thinking is that the Minister would institute proceedings for cancellation.

A/2 Q. And that would, I suppose, cover pretty much the spectrum of what I would call moral criminal offences - for instance, prostitution?

A. Yes. And we have done it in the case of liquor.

Q. You have done it in the case of liquor and assault. I am testing whether you would do it in a wider range of criminal proceedings. I have mentioned prostitution.

A. Yes, I would think so because it would be my opinion such activity could very unlikely be carried on without the knowledge, or the imputed knowledge of the club.

Q. Very well.

Now, my lord, I think I will abandon that line of reasoning. It is too difficult to pin down and it is probably more proper for argument, anyway.

Q. What is the present policy in the

case where a branch club has been convicted and the parent organization desires to continue its livelihood?

A. I don't recall whether I had occasion to deal with that set of facts. It would appear to me that, there again, it would depend on the nature of the report and if the relationship between the main branch and one of the branches were such that the knowledge of the offence being committed ties the branch -- it would be difficult to say which is the head office and which is not the head office because they are supposed to be on an equivalent basis; but, if there were a tie-in with -- there would definitely be proceedings instituted. But, my own thinking is that we might have been stricter than that because, regardless of whether a social club is carrying on within the four walls of one building and within the four walls of another building, that that is an activity which, if there is a relationship between the members of those who committed the actual offence and the club, I would think we would institute proceedings to cancel.

Q. Thank you.

A. My lord, these are hypothetical instances looking to the future.

THE COMMISSIONER: Yes, I quite realize that.

MR. LAWLOR: Q. Would the suggestion have any merit, in your opinion, of having the Department periodically, say every three years, ask the police of this province, local police largely, and provincial, too, if necessary, for a listing of clubs of which there is any suspicion of illegal gambling?

A. I would reply to that, Mr. Lawlor, by saying that I would expect the police in the course of their investigation, as they turned up instances upon which they thought action should be taken, should not wait until they have received an enquiry from us but would report to us, as they have done from time to time as these alleged offences and alleged activities have taken place.

Q. Mr. Yaremko, I do not wish to argue with you. I suggest, however, that in the overwhelming number of instances it has been only after a conviction that the police have made the complaints to you and that in a small number of instances you are correct, they have made -- with gambling, where it is rather notorious, they have made reports to you and you have proceeded on hearings and cancellation?

A. You have used the word "overwhelming". Statistics in the brief will show two-thirds were based on convictions and one-third on other grounds.

Q. Including administrative grounds, which took quite a few?

A. Yes.

Q. So, I suggest to you there were only a few instances where activities of illegal gambling were the grounds - that is, the police report came in during the life of the club and you were aware of no conviction at all on which you were able to act. I am suggesting there were a small number of cases?

A. Would you repeat the question?

Q. I am saying, on the grounds of suspicion of illegal gambling alone the complaints that came in to you from the police were very few?

A. No, I think that all these reports, my lord, and the reading has been -- shows that the police gave a very thorough report, they put in all the information, direct and hearsay evidence, that they can get with relationship to the investigations of clubs and, then, the Minister assesses the report to determine whether there is sufficient cause, whether there is a likelihood

of sufficient cause. I have treated my own assessment of such reports at that stage -- that function as being equivalent to that of a magistrate on a preliminary hearing. I look at the reports to determine whether there is sufficient cause because I know when I hold a hearing one of the things I must face and be prepared to swear to in an affidavit is, in the case of the New Canadian case, that I had found sufficient cause.

Q. The cases we have had before us recently indicate in 1947 the police were cognizant of illegal gambling on the premises. There is nothing, as you admitted in the box yesterday, that they made any complaint arising out of that to your Department?

A. Which file is that?

Q. That is the Bellevue Bridge and Social Club, Mr. Yaremko. In our perusal of files, in instance after instance, the police come to report -- they report that there has been gambling, this place is well known to gambling, a number of phrases, many years previously, which they have not reported to your Department. My suggestion is that they almost invariably wait for a conviction before doing so. Arising out of that situation, which I take to be the

total background, I suggest to you there may be merit in the Department specifically directing police attention on to this and asking for cases of suspicion of illegal gambling, not too often to overburden the Department but, let us say, once in every three years. Is there any merit in that suggestion, in your opinion?

A. I think there is merit in letting the police know. I was under the impression the chief constables have been aware of the fact that the Department has established as a cause for cancellation suspicion of illegal gaming.

I will say this, I am sure they are also aware, and I think an assessment of the files over the past ten years will indicate, the Provincial Secretaries have been rather hesitant to take action where there is mere suspicion. You will see that in the memos, that the references of strong evidence of illegal gaming.

Q. Yes.

A. This is an instance where, very often, it depends upon — it is dependent to some extent upon the point of view of the Minister of the day. I still recall Mr. Dunbar's statement in the House that he did not feel it was his function to usurp the

functions of the Magistrate or the County Court Judge.

Q. Very well.

THE COMMISSIONER: There is a great deal involved in your suggestion, Mr. Lawlor.

MR. LAWLOR: I thought it would be better to face it at this point before I made my recommendation. I thought I should set a base for this phase, not a very good base -- but I will leave it alone, except for one further question.

Q. It has been stated before the Commission that in only five cases has the bars and bolts clause been utilized as a grounds for cancellation. Do you agree with me, or not, that these social clubs which were utilized for gambling, each used bars and bolts in order to keep out the police?

THE COMMISSIONER: Of course a number of them did.

MR. LAWLOR: My lord, they would almost in all instances do so, and this was a good grounds at any particular time but it was never utilized.

THE COMMISSIONER: That is argument.

MR. LAWLOR: Very well.

Q. Mr. Yaremko, while you have been in office have you been subject to any political

influence from any source with respect to the granting of charters or the refraining from cancellation?

A. My lord, I am subject to your direction on this, but the question of Mr. Lawlor's would compel me to search my memory through some two and a half years, during the course of many conversations with many people. I would suggest to you that the files, the judgments, the decisions arrived at speak for themselves.

THE COMMISSIONER: I do not think the question is unfair.

A. I will say this --

Q. During your term of office --

By pressures I take it you mean some attempt to interfere with him in the honest discharge of his duties?

MR. LAWLOR: That is right.

A. My lord, no undue influence or attempt to interfere with the honest discharge of my duties has ever, to my recollection, ever taken place on the part of anybody.

Q. Very well. Mr. Yaremko, as the Minister in charge, I take it, you take full responsibility for your brief as submitted?

A. Mr. Lawlor, under our --

THE COMMISSIONER: Q. That is the fact,

isn't it, you take responsibility for the brief?

A. Yes, I do.

MR. LAWLOR: Very well.

Q. Would you turn to page 82 of the brief. In the Department's observations --

THE COMMISSIONER: Page 82?

MR. LAWLOR: At page 82, my lord, the second paragraph from the bottom, beginning:

"Since the present policy of "the Department was adopted in 1950, "the Department has cancelled for "cause the Letters Patent of 75 "social clubs (69 pre-1950 incorporations, "6 post-1950), and not in one of these "cases had the Letters Patent been "issued by the Department after "July, 1950, in the face of police "objection."

Q. Mr. Yaremko, I say that statement may be technically correct, but isn't it correct in your six cases that you mention in the post-1950 that these clubs had no adverse police objection for the simple reason they were not referred to the police?

A. Of course, Mr. Lawlor, the brief is a complete unit and on page 96 we give the relevant statistics and in Appendix J the relevant statistics as to the cancellations.

Q. Yes. The statement on the face of it. It is a picayune point, perhaps.

A. I would ask you to point out to me the instances where letters patent had been issued in the face of police objection and, then, we can verify by a reference to the file.

Q. No. Your statement is that you did not in one of those cases -- has letters patent been issued in the face of police objection. The reason for that, I suggest to you, was that three clubs were not referred, the Roseland, the Frontier and the Vets Club? They were not referred to the police at all?

A/4

A. That was a comment on the statement of the Leader of the Opposition:

" . . . the action of the hon. Provincial "Secretary's Department in granting "charters to clubs in the face of "police objection . . . "

We were commenting on that specific instance.

" . . . and the subsequent convictions "of many clubs for gaming, . . . "

Because Mr. Wintermeyer had, both in his speech and subsequently, as listed in Appendix M, given a number of instances of grounds of alleged granting, to use his phrase, in the face of police objection, and we analysed those

six cases.

Q. Would you turn to page 48 of the brief, Mr. Yaremko. In your comments, this is concerned with trafficking, in your comments you say at the -- There is a break in the middle of the page and, then, you begin:

"The Department submits that "Mr. Winterneyer in his speech has "presented no evidence to substantiate "his allegation that there has been "'a heavy trafficking' in the "charters of 'so-called clubs'."

And you repeat that allegation in the middle of the next page, page 49. You say the statement is -- as sworn is incorrect. You have sat through all these hearings, have you not?

THE COMMISSIONER: No.

MR. LAMLOR: Q. No, I mean, you have sat through the hearings with respect to Phase 1which concerns your Department, in this room?

A. Most of the time.

THE COMMISSIONER: Most of the time, but you have not been here continuously?

A. Most of the time.

In this instance we were dealing with the speech of Mr. Winterneyer, taking his

statements, and we say:

"The Department submits that Mr.

"Wintermeyer in his speech . . ."

We were looking for evidence in the speech.

MR. LAWLOR: Q. I see. So, your position might be a little different to your statements now, having heard the whole of the testimony?

A. You see, in an appendix of the brief, the Department has given the fullest of details. We have given in Appendix J all the cancellations, the causes, we have summarized and re-summarized.

Q. That is fine. And you mention the word "trafficking" once. If you recall --

THE COMMISSIONER: Put the question.

MR. LAWLOR: Q. To-day, having heard the evidence, or as much as you have heard, do you continue to make that statement, that there is no evidence of heavy trafficking in charters?

A. Well, Mr. Wintermeyer made two statements --

THE COMMISSIONER: Q. No, no. We are trying to get away from that and get a specific question that would not permit of long drawn out answers. Make it concise.

Put the question again, if you want to.

MR. LAWLOR: Q. Does your Department

continue to allege, as you have in your brief, that there is no evidence of heavy trafficking in charters?

A. The files of the Department indicate and this is brought out, that there have been what can be assumed to be improper transfer of charters from one group of individuals to other groups of individuals. I do not know whether the term "trafficking" is possible of a legal definition. The reasons the Departmenthas taken action is always tied down to a specific cause, as opposed to a general term such as "trafficking".

Q. Mr. Yaremko, you know what trafficking means; you go to the trouble of defining it yourself in the brief.

A. We presume that is a decision --

THE COMMISSIONER: What difference does it make, Mr. Lawlor, whether Mr. Yaremko would admit or deny that there has been evidence before me of trafficking? I will assess the evidence as best I can; despite what he might say that evidence indicates.

MR. LAWLOR: All right. Very well, my lord. I won't press that line of questioning, my lord.

I want a ruling on one point - my questioning of Mr. Yaremko is finished.

I have prepared -- or, was prepared to

question Mr. Yaremko with respect to racing club charters and I want your lordship to rule against me.

THE COMMISSIONER: You anticipate, but I will rule against you. You are not going to be disappointed. I am ruling against you.

MR. LAWLOR: Very well.

Thank you very much, my lord.

THE COMMISSIONER: Is that all, Mr. Lawlor?

MR. LAWLOR: That is all, my lord.

THE COMMISSIONER: Have you any re-examination?

MR. WILSON: Yes, I have, Mr. Commissioner.

EXAMINED BY MR. WILSON:

Q. Mr. Estey suggested the charter, physically, had to be located on the premises of the social club. Is that correct under the law?

MR. ESTEY: I did not suggest that at all.

THE COMMISSIONER: I do not remember anything like that.

You mean, the piece of paper?

MR. WILSON: That is right.

THE COMMISSIONER: Had to be tacked up some place?

MR. WILSON: Yes.

THE COMMISSIONER: I do not remember that.

MR. WILSON: Q. I will put it this way: What is the requirement in that regard?

A. My lord, the regulation is under Section 317; a copy of the letters patent would have to be at the head office. Mr. Estey at page 12549 indicates that the charter would have to be maintained on the club premises, I believe. That is the impression.

THE COMMISSIONER: Q. That is what you say?

A. No. He intimated in his evidence (sic) the charter had to be on the club premises. That is not the fact. Under Section 317 a copy has to be maintained at the head office.

Q. You are distinguishing between the head office and the premises where the club operates?

A. Yes.

MR. ESTEY: On occasion there is a difference and on occasion there is not.

When you referred to my "evidence", I suppose you mean my question.

MR. WILSON: Your question.

Q. When you took office on May 25, 1960, you found there were certain problems in

connection with social clubs, which you proceeded to deal with. Now, as of the date of Mr. Wintermeyer's speech, November 29, 1961, what was the situation with regard to these clubs, so far as your Department is concerned?

THE COMMISSIONER: You will have to make it more specific.

MR. WILSON: Possibly. I am leading up to something that will clarify it but I can make it more specific.

Q. As of the date of Mr. Wintermeyer's speech did you consider the statute you were operating under and the regulations you were operating under sufficient to cope with any of the problems that were then existing?

A/5

A. Well, I had already discussed with Mr. Cudney certain changes in policy and I was beginning by that time to have some further ideas of my own in respect to some of the problems which were confronting me and which had confronted the Ministers in the past, I assumed. I was trying to arrive at some ideas in my own mind as to the overall solution, apart from dealing with specific instances.

THE COMMISSIONER: That hardly answers the question.

MR. WILSON: Q. I have asked you, as of that date, whether you considered the regulations

and the law pertaining to social clubs adequate to meet any problems that were then in existence?

A. Yes. I believe I did. I say -- My lord, I was in the process of developing ideas because by November --

THE COMMISSIONER: Q. We are always in the process of developing ideas but I would like to have the question answered specifically because I think it would be very helpful to me in making my report. As of that date were you content or satisfied that the law as contained in the statutes and regulations were adequate to meet the problems that had and were arising?

That is your question?

MR. WILSON: That is so, Mr. Commissioner.

THE COMMISSIONER: Q. Now, what is your answer?

A. I had -- It is difficult to submit what is law, regulation and policy.

Q. You know what the law is. The law is that contained in the statutes. Then, you have regulations passed pursuant to power given by the statute. Now, the two combined, statute and the regulations, were they adequate for the purposes or did you -- were you of the impression there

was something looking that you would like corrected?

A. Yes, there was.

Q. What was it?

A. I was, first, of the opinion, my lord, that if the Provincial Government could persuade the Federal Government to abolish the exception under the Criminal Code, the 168(2), that a great deal of the problems confronting the Provincial Secretary and the police would disappear.

Following that I was confronted with -- I would have hoped within the Criminal Code there was a definition of the word "social". By now, in having had to deal with a great many applications, I could see we had no four corners to deal with. The word "social" was not defined in the Criminal Code, nor the Corporations Act, not that it would help to have it defined in the Corporations Act because no definition of ours would help in the Criminal Code. I thought if the Federal Government could define the word "social", then the Provincial Secretary, in taking his action in granting letters patent, would bear in mind that this is an organization which would come within the meaning -- specific meaning of the word "social" as defined by the Criminal Code. If he felt no such letters patent should issue, then, he could limit the activities of that

corporation to exclude the definition of the word "social".

I discovered in the Department, not having this sign post to go on, we were interpreting the word "social" in its broadest form, and I think Appendix F will indicate we could only refer and deal with these corporations, not only where they were community, athletic, the other definitions within Section 105 which mentions the word "social", and then the others, which would ordinarily mean they were exclusive and we were treating them as all inclusive bases.

Q. That is getting away from the question. You were hopeful, perhaps, the problems would be corrected or overcome if you could persuade the Federal Government to do something?

A. Yes.

Q. Had you in mind anything the Provincial Government might do by way of legislation?

A. Not by way of legislation but I had come to the conclusion that in the cases of applications for supplementary letters patent and in the case of applications for letters patent, where there was an objection on somebody's part to the granting, that perhaps the Provincial Secretary, either

himself or as is customary through his Deputy, should hold a hearing. I had the instance of the Sun Sun where the solicitor used the sharpest of language because all he received was a letter saying it was not in the public interest to grant the supplementary letters patent. He was most indignant; his clients were turned down without having an opportunity of hearing what was alleged against them and giving reasons why they should be granted - that was the supplementary letters patent. On reviewing the instance where police reports have come in, they come in various categories. We have called them unfavourable and Mr. Winterneyer said adverse reports. There was the early instance where it was refused without any reason being given, just that it was not in the public interest. Then, there were others, the Albion Self --

Q. These are sufficient instances.

A. I was coming to the conclusion in those instances we should hold hearings.

Q. Was there anything to prevent you holding -- your Department holding an inquiry to determine the validity of the objection?

A. Up to that date the Department never had. There was no obstacle.

Q. You did not need a statute?

A. No.

Q. To authorize you to do that?

A. The thinking that was going in my mind, in fairness to the police and in the way they operate, the fact so much of their information is of a confidential nature, the enquiries they make, the source of their enquiries, the type of evidence they have to go on, a great deal of it having to be hearsay, I was not sure it would be fair to the police to bring them into a public forum where they would have to divulge sources of information and the basis of their argument. I was in the process at that time, primarily because of these cases I had, of weighing out the instances.

Now, I had one, Local 112 U.A.W. Corporation, which is under consideration, which I may say -- the police have taken a very strong stand. The applicants of the Union membership, of 2,000 --

Q. It is taking a lot of time to get this thing focused. Let us go back to the original question: Did you think something was lacking in the statutes or in the regulations to meet the problems that had arisen and were continuing to arise? I do not know yet just what your answer is.

A. Whether at that specific moment

or subsequently, there was in my mind the fact that the regulations relating, not so much to the bars and bolts clause, because we had a general policy of the cancelling for barricades, but the exception under the Criminal Code, which proviso we were inserting in the post-1950 corporations, did not exist in the pre-1950 corporations, and the gambling paraphernalia clause did not appear in the pre-1950 corporations. I do not think the Ministers had been confronted with that at the time but in my assessing -- looking back over the period I had been doing, I could see where this was a problem and that perhaps legislation should be --

Q. That is what I want to find out.

A. To make these provisos --

Q. Do you think there was something lacking in the legislation that would enable you to deal with that problem?

A. Yes.

Q. What was it?

A. That the provisions of the regulations -- Consideration should be given to making the provisions of the regulations retroactive, to apply to all social clubs.

Q. And that could only be done by statute?

A. That could only be done by statute.

MR. WILSON: Q. You are thinking in terms of Regulation 61, subsection or paragraph 23?

A. Yes. Some, in a different way, had been made retroactive but not all of them.

Q. As of the present date, apart from your observations with respect to Regulation 61, have you any problems in the administration of the law or regulations pertaining to social clubs?

THE COMMISSIONER: Apart from what?

MR. WILSON: Apart from his observation with respect to Regulation 61.

Q. What is the position to-day?

A. I think that by now the matter was well in hand. The matter of the trafficking, we have had regard to. I think the statutory provision, plus the additional information respecting the annual returns, I think we have coped with the moving about of these clubs. Now, it may not deal with the situation where a club on its own premises, where there is a change of officers and there is a change of personnel right within the premises, without moving; how you would ever cope with that situation I do not know. But, I think the business of the trafficking that has taken place, especially in view of the fact that after

Mr. Cudney's conversation with Mr. -- Chief Mackey --

(Page 13605 follows)

B/1/GS

THE COMMISSIONER: Well now, wait a minute. We get a long speech, and I am not saying that critically.

A. No.

Q. I want to get to the very core of this. I think Mr.Wilson's question is prompted by this consideration, namely, in your opinion today, in the light of your experience up until today as Provincial Secretary, and in the light of the evidence before me, is there any legislation or supplementary regulations that the witness would suggest ought to be enacted or made. Is that the substance of your question?

MR. WILSON: Well, I want to know whether he has got any problems with these clubs as of the present date. He has observed the possibility of enacting retroactively Regulation 61 as part of the Statute as a safeguard.

THE COMMISSIONER: Yes.

MR. WILSON: But I -- WhatI am trying to find out from the witness is whether he has got any problems today, apart from that observation.

THE COMMISSIONER: And what is the answer? Yes or no?

A. I don't think there is a problem, but there is the possibility of strenghhening

the hand of the Provincial Secretary, and with that ---

Q. To do what?

A. To -- Not to cope with what has taken place, but with a view to -- to anticipating any additional trouble. When you pose the question, my lord, to me about my thinking as of today, then I am in a position to tell you what my thinking is of today; whereas, back then it was in a procedural stage, and I make this suggestion to you, that it is my belief that the exception -- my opinion today is that the exception within the Criminal Code should be abolished. If it is not ---

Q. Well, the Province of Ontario has not any jurisdiction over that.

A. If it is not, representation should be made.

MR. WILSON: Q. You have dealt with that. Now ---

A. That there should be definition, that certain regulations should be made retroactive, that so far as the discretion of the cause of cancellation I would leave that alone, although it is true that it is, from the point of view of the Provincial Secretary, or any administrative officer, that something is automatic - if A happens, then B follows - is an easy way, but anyone who assumes the

responsibility must be prepared to deal with those responsibilities, and exercise that discretion is to someone who is conscientious a -- not an easy thing, and I think that the -- although it presents problems, I think that the Provincial Secretary, and any Minister, by and large, you assume that responsibility.

THE COMMISSIONER: All right, we have that now. Anything else?

MR. WILSON: Maybe I can get a little more light whether - just listen to this question.

Q. I want to get some light on what I am trying to find out. As of the present date, have you any complaints in your Department from any police authority which have not been attended to by way of either saying that is not sufficient to act on, or where you have put into process some cancellation proceedings?

A. We have been able to deal with ---

Q. Now, just listen to the question.

THE COMMISSIONER: Have you any?

MR. WILSON: Have you any complaints now that have not been dealt with to date?

A. No complaints.

Q. No. Well, that is what I am asking you. Now, there has been some reference yesterday to your practice or policy in regard to prosecutions of Part XII corporations. Is

there any difference between that policy in respect to Part III corporations, and corporations generally under The Corporations Act?

THE COMMISSIONER: Yes or no?

A. No, there is no difference.

MR. WILSON: Now, my friend, Mr. Estey, said yesterday there was a Club Bernard and he said it was the worst example of a delay, and I don't think we touched on that very much in the evidence, and I would ask you to produce that file, and there are just two questions I want to ask about it.

B/2

THE COMMISSIONER: Was it referred to in the examination of Mr. Cudney?

MR. WILSON: No, I don't think it was, Mr. Commissioner.

THE COMMISSIONER: All right.

MR. WILSON: But in view of the statement, I just briefly want to ---

MR. ESTEY: I think it was, some place.

MR. WILSON: Well, in that file I think you will find - he said there had been a delay from '55 to '61. I think you find in that file a police report dated in 1955 from Inspector Walker - October 6th, 1955. That is ffom the Metro Police.

A. Yes, there is such areport in the file.

Q. And then is there a reply to that report by Mr. Gudney?

A. Yes, on October 17th Mr. Gudney wrote to Chief Chisholm:

" I refer to your letter of "October 7 relative — " which enclosed the report, -

"— relative to the above club.

" I would appreciate it if "Inspector Walker and any other "members of your Department that "you may choose could arrange an "appointment to see me in this "matter."

Q. Now, then, is there a further letter from Mr.Gudney to Inspector Walker of November 25th, 1953?

A. There is, and it reads as follows:

" I refer to our conversation "of some time ago relative to the "above club.

" I have discussed this matter "further with Mr. Dunbar and I regret "to advise that on the evidence before "us it would not be possible for us "to cancel the Letters Patent of "this Club under Section 325(1) "of The Corporations Act, 1953. If "you can find some further evidence

"of misconduct on the part of
"this Club we will give every
"consideration to cancelling
"the Charter."

Q. Now, after that date, is there -- what is the next communication from the Metro Police, or any other police?

A. There is a letter received on June the 7th, dated June the 6th, from Chief Mackay to Mr. Cudney enclosing a report.

Q. What year?

A. 1961.

Q. Yes.

A. And that is enclosing a report dated June 1st, 1961.

Q. And as a result of that report, you took proceedings, and the charter was cancelled on July 10th, 1961?

A. Yes, that is a fact.

Q. Now ---

MR. ESTEY: Well, that is not really a fair way to leave it, is it, my lord? I have got my notes on that. I think there is no evidence of any hearing being held in 1955. Perhaps that question should be put.

MR. WILSON: No what?

MR. ESTEY: Whether a hearing was held in 1955, or whether that was just ---

MR. WILSON: Q. Well, was there a hearing

held in 1955?

A. There is no statement as to the hearing. There is that letter of Mr. Cudney's asking for Inspector Walker and any other members of the Department to make an appointment to see me in this matter.

MR. WILSON: That is all, thank you.

THE WITNESS: My lord, there was -- You were referring to certain suggestions about my thinking, and there were two others that I --

THE COMMISSIONER: Yes.

A. -- perhaps might place before you.

Q. Rather out if off at that point.

A. One was with relationship to the matter of prosecutions under The Corporations Act. I had discussed with Mr. Cudney during the time about this, about the procedures of the Department, and they are familiar to you. If there are assets, we prosecute; ;if there are no assets, we take this failure to file annual returns.

And then, with respect to these complaints, there was cancellation, and it was felt by the Department that once you cancelled, and got rid of the -- of the cancer, that it perhaps was the solution. In xxxx reviewing the matter, of course, the Department was confronted with the section - with the provisions

in the Summaries - the Summary Convictions Act, the six-month limitation provision. I have no strong views, but it has been brought to my attention that under the Securities Act, there are penalty sections, Section 64 and 65(2), which reads briefly as follows:

2/3

" No proceedings under "Section 64 shall be commenced "more than one year after the "facts upon which the proceedings "are based first came to the "knowledge of the Commission."

THE COMMISSIONER: What section of the Securities Act is that?

A. That is reading 64, and 65, subsection 2 together.

And then there is the ---

Q. Go ahead.

A. -- difficulty of proof under these - under these -- some of these certificates, and again, without having a very strong view, I bring to your attention that under Section 5 of The Corporations Information Act, in relation to prospectus, there is a shifting of the onus, and if I may in my own words paraphrase, that they are -- I have my memo here, shift ~~xx~~ the onus of proof respecting the general penalty section of the Corporations Act, along ~~xx~~ the lines of Section 5 of the Corporations Information

Act re prospectuses, where the defendant has to prove that he had reasonable grounds to believe.

Now, I put those two items before you, without any strong feelings, but they are -- they are fairly radical steps which we are checking to see what is the best, I believe, to take care of certain difficult situations, perhaps comparable to the present time.

I have also considered the matter of appeals from decisions of the Minister. I am one of those, and I think it is well known to the public at large, and most of my own colleagues, about the fact that I have always been a great believer personally in appeals to the court, but reference has been made to the Committee on Organization, the MacIntosh, Magone, Gordon report, and the first Board from which there is an appeal is that of the Liquor Licence Board, which passed in the last Session. The Act which comes under my jurisdiction ----

THE COMMISSIONER: I think I should stop you abruptly. Well, no, I will not just stop you at the moment. Are you leading up to the suggestion that there should be an appeal?

A. I have no -- That is a matter which I place before you for consideration, where,

in some of these instances, the penalty is quite a severe one, when you cancel, and I am not talking about those which are notoriously reputed for illegal gaming, I am talking about perhaps where a bona fide social club transgressed against one of the provisions, and the Minister makes a finding upon it, which is a very strict penalty. He wipes out the very existence of the organization. I have no strong views, and I have placed it before you that you might give consideration whether in some of these instances there ---

Q. It would be futile to give a right of appeal against a discretionary order.

A. I appreciate that.

Q. No court is going to review the discretion exercised by an officer from whom the appeal is taken.

A. Unless it was made statutory.

Q. Pardon?

A. Unless it were made statutory.

Q. Unless what was made statutory?

A. A right of appeal.

Q. Well, there would not be any right of appeal unless it was statutory. No court of appeal is going to review the discretion - the honest discretion exercised by the original officer.

A. They haven't done it.

THE COMMISSIONER: And I don't think they ever would. You are putting the court of appeal in the position of the original officer.

A. Yes, my lord.

Q. Now, is there anything else?

A. Now, I would ask your indulgence, if you would turn to Appendix J of the brief, my lord, and if you would turn to page 7.

Some question was raised, I believe, directly or indirectly, as to the timing of the cancellations, and I would ask you, if you would be kind enough, to make the following note on your file, and I only deal with post May the 26th, 1960, and if you look at No.58, June the 3rd, Centre Road Veterans Association. If you will write under that the word "hearing". That was an instance where there was a hearing, and I am going to indicate to you, for your record, that you will know that - have a record of those instances where there were hearings, and where there were no hearings. asked for, and cancellation followed.

Q. All right. 58 is one of them.

A. 60, Central Recreation Club is a hearing.

And then the next page you will note is the fall of 1960, and the beginning of 1961, and there are cancellations which have been going regularly, even though Mr. Cudney was away

because of illness, and there were no hearings requested in those.

And then the next one we come to on page 9, to 72, the Community Social Club, and there is a hearing.

And then we come to No.74, 75, 76 and 77, Chan Social Club, a hearing; Club Macedonia, a hearing; Preston Amateur, a hearing; Colonial Club, a hearing.

And when I had a meeting with Mr. Cudney in May of that year, I was reviewing. I had said to him, said, "Bob, let's establish a target date to get all these things cleaned up", and the target date would be the commencement of the Session in the fall. I said, "Do your best to get these lawyers to have their hearings prior to that", and it is not an easy task to fix a date for hearings, and the result was that Mr. Cudney - the Session, I believe, started on the 22nd of November - in these four instances that people have held hearings, and placed the transcripts on my desk on the 24th of November. So that all those -- those instances were before me on my desk as of the 24th of November for my consideration. I would have to read, as was my custom, the whole file, and the transcript.

Now, turning over the page, there are

three clubs there, the Acme Card Club, No.78, 79 and 80, Acme Card Club, Club 21, New Canadians, and they all had hearings, and examined the files. Well, in those cases, Mr. Cudney was unable to, not because he didn't want to, but because it was a difficult time to fix a time when the solicitors or perhaps with the officers, to hold hearings, and those hearings were not held until subsequently, and the transcript of evidence, but they relate to proceedings which had been instituted prior to the 29th of November.

Now, if you can just make a note at the bottom of the page that since No.80, there have been four cancellations without hearings, and then six cancellation proceedings where hearings are in course or to be held, and I have the details of those, and since that time --

Q. Just give me that again.

A. There were four cancellations since No.80, where -- without hearings.

Q. Yes.

A. Well, then, that is listed in Exhibit 271, plus six cancellation proceedings where hearings are in course. I think they are in course, and the other five, they have yet - the hearings have yet to be held.

Q. Well, I don't get that six.

A. There are six -- six pending.

There are six files which are pending.

Q. At present?

A. At present. One is -- One had commenced a hearing, and then there was an adjournment, and in the other five the dates for the hearings have not as yet been fixed, as was explained in the course of the hearing.

Q. All right. Is that all?

A. That is all in respect to that.

Now, I think thatduring the course of the examination of Mr. Cudney,Mr. Estey from time to time would say - would refer to a memo, and then would say, "Is there an answer to that memo in the file" and there was no answer, and I suggest now that invariably what would happen, as is our practice, that Mr. Cudney would send me these memos in advance, for me to be able to read in conjunction with - at my convenience I looked over the matters which I have before me, and then I would call him in. He would come to the door and we would have an oral discussion, and then the next step in the file would indicate that we had had an oral discussion and he was proceeding in the matter.

Q. All right. Anything else?

A. I conclude by saying to you, my lord,that I have worked with Mr. Cudney, who has had an experience of over 31 years, to

my mind is one of the, if not the outstanding man in the corporate field, and the administration in the Dominion of Canada. He has with him Mr. Lavine as director of companies, a post which was created by Mr. Cudney and myself in the last two years, and Mr. Lavine, I believe, is one of the most brilliant minds within the corporate field. We have in the Department a Mr. Daley, senior executive officer, and assistant Mr. McCormack, whom you have seen here. They are in charge of the records department. Their job, just in keeping the records of the Department of the Provincial Secretary, is to me an astounding accomplishment, when you consider the fantastic number of files, the job they have done, as is x set out in very summarized form on here, where we dealt with some 450,000 documents having been processed in the last ten years. I pay tribute to them. They are utterly devoted civil servants.

About my predecessors, I only say this: That the foundation that they made, and the policies they developed, provided me with the sinews, provided them with the sinews and provided me with the sinews to adequately cope with the problems presented by the police from time to time when they were presented to us, they - and always to me and Mr. Cudney,

and I have always said to him that of the 13 years of the last 16 or 19 years, the bulk of the time the office has been held by a man who is not a lawyer. I don't say whether that is a good thing or a bad thing. I happen to be a lawyer. They were fortunate that they had, I believe, the common sense, the good judgment, assisted by the technical-legal knowledge of Mr. Gudney, and his advice, able to deal with the problems that were confronting them within this particular field, which is a comparatively small field within the - though an important one - within the Department.

And my last words are to you, my lord, are these: That on the 25th of May I took an oath that "I do solemly swear" - "solemly promise and swear that I would duly and carefully and to the best of my skill and ability exercise the confidence and trust imposed in me as Provincial Secretary of the Province of Ontario". I believe - "so help me God". I believe I have done so.

Q. All right.

MR. WILSON: That is it.

THE WITNESS: Thank you, my lord. May I be excused?

THE COMMISSIONER: Yes. Thank you.

---The witness withdrew.

MR. WILSON: That is all the evidence on question 1.

I suggest we have a short break before we renew.

THE COMMISSIONER: I want to deal now with the matters raised by Mr. Brewin yesterday.

MR. WILSON: Yes.

THE COMMISSIONER: Yesterday Mr. Brewin made the following submissions, and with respect to which I said I would announce my decision when the evidence had been completed.

The submissions were that parts of the evidence touching question 3 should be either given or the effect of it announced to the public. Question 3, on which I have been asked to inquire and report, is the extent of crime in the Province, and the sufficiency of the enforcement agencies to cope with it. I am very firmly of the opinion that all the evidence relative to that question should be heard by me in camera. That evidence will touch upon the enforcement of the criminal law by the police, and it would not be in the best interest of the repression of crime by those agencies that the methods adopted, whether they are adequate or inadequate, should be the subject of public discussion, so that the criminal elements may be able to read about it in the press. That is something

which should be withheld from the criminal elements.

Mr. Brewin supplemented his submissions relative to that particular subject by suggesting that the public should be educated with respect to the consequences that can flow from a possible upsurge in crime, the failure to repress crime, that that education might be received by the public through evidence taken at a public hearing. The better way, in my opinion, in which to educate the public, if that is what Mr. Brewin had in mind so far as this Commission is concerned, is to do so through the report that I shall make.

Mr. Brewin's second submission was that representations by counsel for the Liberal Party and the New Democratic Party as to the evidence, and what it disclosed, and what conclusions I should reach as a result of it, should be made in public. I disagree.

Having regard to the very nature of this inquiry, there was bound to be some political overtones from time to time. I have struggled to reduce them to the minimum. My function is to find facts.

Counsel for the Opposition parties asked that they should be permitted to examine witnesses, call witnesses, by way of assisting me with respect to the fact-finding jurisdiction

conferred upon me. I welcome that assistance. I will welcome the assistance of those counsel in making submissions to me as to what the evidence disclosed. Mr. Brewin was realistic enough to admit that there would be temptations present upon those counsel to do perhaps more than that, and I am fully conscious what those temptations would be, and I do not want this Commission to be a sounding board for political speeches, opinions, propaganda, which might be the subject matter for discussion in some other form.

So my ruling is that those submissions will be in camera.

Now, Mr. Brewin made a third request, and I am not quite so sure that I remember what it was.

MR. LAWLOR: Calling Chief McGill.

THE COMMISSIONER: Oh, yes. Well, he -- I thought he rather withdrew that. He suggested that.

MR. WILSON: I think he did withdraw it.

THE COMMISSIONER: Yes. Well, in case he didn't, if I have to deal with Mr. Brewin's submission yesterday that I should direct that Chief McGill be recalled, then I decide against him.

Are all of you rising to say something?

MR. LAWLOR: If your lordship is finished, I would like to make some remarks.

THE COMMISSIONER: Directed to what?

MR. LAWLOR: To direction from your lordship to counsel touching another matter which was not mentioned by your lordship, with respect to phase 3. I don't know -- I don't recall -- did Mr. Erwin not object to the lack of counsel present at that - during those particular proceedings?

THE COMMISSIONER: I think perhaps he did.

MR. LAWLOR: Then, with your lordship's -- I would ask your lordship to rule on that, as to whether counsel will or will not be present on that occasion - those occasions.

THE COMMISSIONER: Is that all? I say, is that all?

MR. LAWLOR: No.

The second matter, my lord, with respect to submissions that we are to make in camera, is it my understanding that we are not free, or are we free, to make disclosures of what we submit to your lordship in public subsequently?

THE COMMISSIONER: Anything else?

MR. LAWLOR: No, my lord.

THE COMMISSIONER: Thank you. I will deal with those right now.

With respect to the submission which Mr. Lawlor has just made, with respect to the hearing - hearing on question 3, his submission carried the innuendo, and correct me if I am wrong, that counsel for the opposite parties ought to be permitted to be present.

MR. LAWLOR: Yes.

THE COMMISSIONER: Thank you. My answer is no. The function of counsel is to assist the Commissioner, and without meaning to be egotistical, I think I can resolve that problem adequately, and do not require the assistance of counsel.

To a large extent, that evidence will deal with statistics. Counsel cannot alter statistics. It will deal with police methods, and whether something is lacking, and whether there is room for improvement, and the policies adopted by the police for repression of crime. I do not suppose counsel for the Opposition parties know any more about that than I do.

Second, as to whether or not counsel for the Opposition parties will be free to make disclosures of the statements made by them on questions 1 and 2 in camera. I have no jurisdiction over what counsel may disclose.

Those submissions will be recorded. I shall have them. If counsel desire to comment on them outside this Commission, I know

of no reason why they are not at liberty to do so. I am not going to attempt to prevent them from doing so. As to why they should, is quite another matter, unless it would be for purposes of political propaganda, and I can control that within the confines of this Commission. I cannot confine -- I cannot control it beyond.

And that completes the evidence, Mr. Wilson?

MR. WILSON: That is right, Mr. Commissioner.

THE COMMISSIONER: For any public hearings.

MR. WILSON: Public hearings.

THE COMMISSIONER: And before I rise, I desire to say to all who have assisted in this inquiry that I am very grateful for the assistance that they have given me.

A huge task confronts me now, namely completing my report. I will address myself to it without delay, and complete it just as quickly as is humanly possible to do so.

---Thereupon the hearing concluded at 11:40 o'clock, a.m.

ROYAL COMMISSION ON CRIME IN ONTARIO

Consolidated Index of Witnesses

ROYAL COMMISSION ON CRIME IN ONTARIO

Consolidated Indices

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STATE, WHEN TYPWRIT				
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Dr. Beautiful	E	10	[illegible]	
Dr. Vision	E	10	[illegible]	
CITY, Every Evidence				
Dr. Vision	E	37	[illegible]	
Dr. Beautiful	E	37	[illegible]	
Dr. Know	E	37	[illegible]	
Dr. Vision	E	37	[illegible]	
(reading) Dr. Vision	E	80	[illegible]	
FIRM, Mind Lengthy Law				
Dr. Vision	I	10	[illegible]	
Dr. Beautiful	I	10	[illegible]	
CLAIM, Open:				
Dr. Vision	A	4	[illegible]	
Dr. Beautiful	A	4	[illegible]	
Dr. Vision	A	4	[illegible]	
(reading) Dr. Vision	B	3	[illegible]	
Dr. Beautiful	B	4	[illegible]	
CLAIM, Gives				
Dr. Vision	I	34	[illegible]	
CLAIM, Written Something				
Dr. Vision	E	6	[illegible]	
(reading) Dr. Vision	E	7	[illegible]	
Dr. Beautiful	E	7	[illegible]	
Dr. Lawyer	E	7	[illegible]	
Dr. Vision	E	7	[illegible]	
(reading) Dr. Vision	E	84	[illegible]	
Dr. Beautiful	E	80	[illegible]	
Dr. Know	E	49	[illegible]	
PROBLEM, Vision Dr.				
Dr. Vision	A	3	[illegible]	
(reading) Dr. Vision	B	50	[illegible]	
Dr. Beautiful	B	50	[illegible]	
Dr. Lawyer	B	40	[illegible]	
Dr. Vision	B	50	[illegible]	
(reading), Dr. Vision Dr.				
Dr. Vision	D	23	[illegible]	
Dr. Know	D	23	[illegible]	
Dr. Know	D	23	[illegible]	
(reading) Dr. Vision	D	50	[illegible]	
Dr. Know	D	23	[illegible]	
Dr. Vision	D	23	[illegible]	
PROPERTY, Attorney				
Dr. Vision	E	37	[illegible]	
Dr. Beautiful	E	37	[illegible]	

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[Possibly]	Dr. Wilson	L	40	Duet
[Possibly]	Dr. Wilson	M	41	Duet
[Possibly]	Dr. Wilson	N	40	Duet
	Dr. Hopkinson	S	42	Duet
	Dr. Gwenin	S	40	Duet
[Possibly]	Dr. Wilson	W	45	Duet
	Dr. Hopkinson	W	45	Duet
Jackson, Robert Owen				
	Dr. Wilson	O	5	Duet
	Dr. Jones	O	5	Duet
	Dr. Stevens	R	6	Duet
[Possibly]	Dr. Wilson	U	47	Duet
[Possibly]	Dr. Wilson	U	47	Duet
[Possibly]	Dr. Jones	U	47	Duet
	Dr. Lawler	W	50	Duet
	Dr. Wilson	W	45	Duet
Quizlow, Eva, Jenkins				
	Dr. Wilson	U	32	Duet
Davis, Albert Gwendolyn				
	Dr. Wilson	A	3	Duet
	Dr. Hawthorne	A	3	Duet
	Dr. Stevens	A	3	Duet
[Possibly]	Dr. Wilson	T	5	Duet
	Dr. Hawthorne	T	5	Duet
Wetherlock, Barnes Hugh				
	Dr. Wilson	L	10	Duet
	Dr. Hawthorne	I	20	Duet
[Possibly]	Dr. Wilson	E	42	Duet
	Dr. Jones	I	[illegible]	Duet
	Dr. Lawler	R	42	Duet
	Dr. Jones	R	42	Duet
Jenkins, Al				
	Dr. Wilson	G	50	Duet
Yarnell, Reginald Albert				
	Dr. Wilson	S	5	Duet
	Dr. Hawthorne	S	5	Duet
Wilson, Geoffrey				
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	Dr. Hawthorne	X	[illegible]	Duet
	Dr. Jones	X	30	Duet

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	Dr. Gibson	6	40	3/4
Hooper, Paul				
	Dr. Gibson	4	3	5/6
	Dr. Templeton	4	7	4/5
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	———————	8	4	1/2
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	Mr. Martinez	4	33	5/6
	Dr. Gibson	4	34	5/6
(Versailles)	Dr. Gibson	4	34	7/8
	Dr. Gordon	4	34	7/8
	Mr. Martinez	4	34	7/8
	Dr. Shaw	4	34	7/8
	Dr. Gibson	4	34	7/8
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	Dr. Gibson	5	20	1/2
	Dr. Shaw	5	20	1/2
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	Dr. Gibson	5	20	1/2
	Dr. Shaw	5	20	1/2
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Mr. Hugh	B	17	[illegible]	
Mr. Elmer	G	23	[illegible]	
Mr. William	G	23	[illegible]	
LAMBERT, Frances Dorine				
Mr. William	I	19	[illegible]	
{remarried} Mr. William	I	20	[illegible]	
{remarried} Mr. William	I	20	[illegible]	
{remarried} Mr. Montague	I	20	[illegible]	
LANDRIGG, Leonard George				
Mr. Ralph	G	25	[illegible]	
Mr. Hugh	G	25	[illegible]	
LAWRENCE, Albert John Burton				
Mr. Ralph	I	18	[illegible]	
{remarried} Mr. William	I	19	[illegible]	
Mr. Montague	I	20	[illegible]	
{divorced} Mr. Montague	I	18	[illegible]	
{remarried} The Honourable	I	19	[illegible]	
{remarried} Mr. Montague	I	20	[illegible]	
Mr. Ralph	I	19	[illegible]	
Mr. William	I	20	[illegible]	
LAZZ, William Gwenth				
Mr. William	G	37	[illegible]	
Mr. Montague	G	37	[illegible]	
Mr. Hugh	G	37	[illegible]	
Mr. William	G	38	[illegible]	
LOVY, Harry Ernest				
Mr. William	H	[illegible]	[illegible]	
MORRIS, Clifford R.				
Mr. William	A	1	[illegible]	
{remarried} Mr. Montague	G	25	[illegible]	
SILVERT, Arthur				
Mr. William	F	29	[illegible]	
Mr. Hugh	F	29	[illegible]	
Mr. Elmer	F	29	[illegible]	
WATERLOW, Harry				
Mr. William	C	27	[illegible]	
Mr. Montague	C	27	[illegible]	
Mr. Ernest	C	27	[illegible]	
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[illegible], Adam V.				
	Mr. Adams	[illegible]	[illegible]	[illegible]
	Mr. Bugg	[illegible]	[illegible]	[illegible]
(remelted)	Mr. Bugg	[illegible]	[illegible]	[illegible]
[illegible], Alexis				
	Mr. Allen	A	[illegible]	[illegible]
	Mr. Blackburn	A	[illegible]	[illegible]
	Mr. Brown	A	[illegible]	[illegible]
	Mr. Ellen	A	[illegible]	[illegible]
(remelted)	Mr. Ellen	[illegible]	[illegible]	[illegible]
	Mr. Hawkins	[illegible]	[illegible]	[illegible]
	Mr. Sophia	[illegible]	[illegible]	[illegible]
	Mr. Swallows	[illegible]	[illegible]	[illegible]
[illegible], Thomas Joseph				
	Mr. Allen	[illegible]	[illegible]	[illegible]
(remelted)	Mr. Allen	[illegible]	[illegible]	[illegible]
	Mr. Hawkins	[illegible]	[illegible]	[illegible]
	Mr. Sophia	[illegible]	[illegible]	[illegible]
	Mr. Shaw	[illegible]	[illegible]	[illegible]
[illegible], Frank				
	Mr. Allen	[illegible]	[illegible]	[illegible]
	Mr. Lawler	[illegible]	[illegible]	[illegible]
[illegible], Jackson				
	Mr. Allen	[illegible]	[illegible]	[illegible]
	Mr. Bugg	[illegible]	[illegible]	[illegible]
[illegible], John Henry				
	Mr. Allen	[illegible]	[illegible]	[illegible]
	Mr. Hawkins	[illegible]	[illegible]	[illegible]
	Mr. Allen	[illegible]	[illegible]	[illegible]
(remelted)	Mr. Hawkins	[illegible]	[illegible]	[illegible]
(remelted)	Mr. Allen	[illegible]	[illegible]	[illegible]
	Mr. Sophia	[illegible]	[illegible]	[illegible]
	Mr. Bugg	[illegible]	[illegible]	[illegible]
	Mr. Ems	[illegible]	[illegible]	[illegible]
	Mr. Allen	[illegible]	[illegible]	[illegible]
(remelted)	Mr. Jones	[illegible]	[illegible]	[illegible]
[illegible], Allen Cyrus				
	Mr. Allen	[illegible]	[illegible]	[illegible]
	Mr. Hawkins	[illegible]	[illegible]	[illegible]
[illegible], Sam				
	Mr. Adams	[illegible]	[illegible]	[illegible]
[illegible], John Edward				
	Mr. Allen	[illegible]	[illegible]	[illegible]
[illegible], [illegible] Ann				
	Mr. Allen	[illegible]	[illegible]	[illegible]

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[illegible] on the Intercoastal Lines 1/

Name	Employed by	Class	Yrs.	Date
[illegible], Jno., Specialties Crewman				
	Mr. Wilson	L	32	[illegible]
	Mr. Mackintosh	L	32	[illegible]
	Mr. Moss	L	32	[illegible]
Mack, William C.				
	Mr. Wilson	X	20	[illegible]
	Mr. Mackintosh	Y	20	[illegible]
	Mr. Moss	X	20	[illegible]
(Terminated)	Mr. Wilson	Z	20	[illegible]
	Mr. Mackintosh	Z	20	[illegible]
Mann, Alexander H.				
	Mr. Wilson	L	20	[illegible]
	Mr. Mackintosh	L	20	[illegible]
Mason, James A.				
	Mr. Wilson	X	15	[illegible]
Mason, Peter	Mr. Wilson	X	14	[illegible]
(Terminated)	Mr. Wilson	X	13	[illegible]
	Mr. Mack	X	13	[illegible]
	Mr. Moss	X	13	[illegible]
	Mr. Thomas	Y	13	[illegible]
Matthews, Jim				
	Mr. Wilson	Y	16	[illegible]
	Mr. Tyler	Y	16	[illegible]
	Mr. Mackie	Y	16	[illegible]
	Mr. Wilson	Y	16	[illegible]
Mayer, Donald Theodore				
	Mr. Wilson	Z	17	[illegible]
	Mr. Mackintosh	Z	17	[illegible]
	Mr. Wilson	Z	17	[illegible]
Miller, George				
	Mr. Wilson	S	8	[illegible]
	Mr. Mackintosh	S	8	[illegible]
	Mr. Myers	S	8	[illegible]
	Mr. Wilson	S	8	[illegible]
(Terminated)	Mr. Wilson	S	8	[illegible]
(Terminated)	Mr. Wilson	L	8	[illegible]
(Terminated)	Mr. Wilson	L	10	[illegible]
	Mr. Mackintosh	L	10	[illegible]
	Mr. Moss	L	10	[illegible]
	Mr. Wilson	L	10	[illegible]
	Mr. Smith	L	10	[illegible]
Montgomery, Alfred				
	Mr. Wilson	X	37	[illegible]
	Mr. Mackintosh	X	37	[illegible]

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